

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

Sec.

- 224.101 Enumeration of endangered marine and anadromous species.
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AUTHORITY: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

SOURCE: 64 FR 14066, Mar. 23, 1999, unless otherwise noted.

§ 224.101 Enumeration of endangered marine and anadromous species.

(a) The regulations in this part identify the species under the jurisdiction of the Secretary of Commerce that have been determined to be endangered species pursuant to section 4(a) of the Act, and provide for the conservation of such species by establishing rules and procedures to governing activities involving the species.

(b) The regulations in this part apply only to the endangered species enumerated in this section.

(c) The provisions of this part are in addition to, and not in lieu of, other regulations of parts 222 through 226 of this chapter which prescribe additional restrictions or conditions governing endangered species.

(d) The table below identifies the species under the jurisdiction of the Secretary of Commerce that have been determined to be endangered pursuant to section 4(a) of the Act, species treated as endangered because they are sufficiently similar in appearance to endangered species, and experimental populations of endangered species.

(e) The columns entitled “Common name,” “Scientific name,” and “Description of listed entity” define the species within the meaning of the Act. In the “Common name” column, experimental populations are identified as “XE” for essential populations or “XN” for nonessential populations. Species listed based on similarity of appearance are identified as “S/A.” Although a column for “Common name”

is included, common names cannot be relied upon for identification of any specimen, because they may vary greatly in local usage. The “Scientific name” column provides the most recently accepted scientific name, relying to the extent practicable on the *International Code of Zoological Nomenclature*. In cases in which confusion might arise, a synonym(s) will be provided in parentheses. The “Description of listed entity” column identifies whether the listed entity comprises the entire species, a subspecies, or a distinct population segment (DPS) and provides a description for any DPSs. Unless otherwise indicated in the “Description of listed entity” column, all individual members of the listed entity and their progeny retain their listing status wherever found, including individuals in captivity. Information regarding the general range of the species, subspecies, or DPS may be found in the FEDERAL REGISTER notice(s) cited in the “Citation(s) for listing determination(s)” column.

(f) The “Citation(s) for listing determination(s)” column provides reference to the FEDERAL REGISTER notice(s) determining the species’ status under the Act. The abbreviation “(SPR)” (significant portion of its range) after a citation indicates that the species was listed based on its status in a significant portion of its range. If a citation does not include the “(SPR)” notation, it means that the species was listed based on its status throughout its entire range. For “(SPR)” listings, a geographical description of the SPR may be found in the referenced FEDERAL REGISTER Notice. The “(SPR)” notation serves an informational purpose only and does not imply any limitation on the application of the prohibitions or restrictions of the Act or implementing rules.

(g) The “Critical habitat” and “ESA rules” columns provide cross-references to other sections in this part and part 226. The term “NA” appearing in the “Critical habitat” column indicates that there are no critical habitat designations for that species; similarly, the term “NA” appearing in the “ESA rules” column indicates that there are no ESA rules for that species. However, all other applicable rules in parts 222

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through 226 and part 402 still apply to that species. Also, there may be other rules in this title that relate to such wildlife. The “ESA rules” column is not intended to list all Federal, state,

tribal, or local governmental regulations that may apply to the species.

(h) The endangered species under the jurisdiction of the Secretary of Commerce are:

Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Marine Mammals					
Dolphin, Chinese River (aka baiji).	<i>Lipotes vexillifer</i>	Entire species	54 FR 22906, May 30, 1989.	NA	NA.
Dolphin, South Asian River (Indus River sub-species).	<i>Platanista gangetica minor</i> .	Entire subspecies	55 FR 50835, Dec 11, 1990.	NA	NA.
Porpoise, Gulf of California harbor (aka vaquita or cochito).	<i>Phocoena sinus</i>	Entire species	50 FR 1056, Jan 9, 1985.	NA	NA.
Sea lion, Steller (Western DPS).	<i>Eumetopias jubatus</i> .	Steller sea lions born in the wild, west of 144° W. Long. Also, Steller sea lions born in captivity whose mother was born in the wild, west of 144° W. Long., and progeny of these captives.	62 FR 24345, May 5, 1997.	226.202	224.103, 226.202.
Seal, Hawaiian monk.	<i>Neomonachus schauinslandi</i> (= <i>Monachus schauinslandi</i> .)	Entire Species	41 FR 51611, Nov 23, 1976.	226.201	NA
Seal, Mediterranean monk.	<i>Monachus monachus</i> .	Entire species	35 FR 8491, June 2, 1970.	NA	NA.
Seal, ringed (Ladoga subspecies).	<i>Phoca (=Pusa) hispida ladogensis</i> .	Entire subspecies	77 FR 76706; Dec 28, 2012.	NA	NA.
Seal, ringed (Saimaa sub-species).	<i>Phoca (=Pusa) hispida saimensis</i> .	Entire subspecies	58 FR 26920, May 6, 1993.	NA	NA.
Whale, beluga (Cook Inlet DPS).	<i>Delphinapterus leucas</i> .	Beluga whales originating from Cook Inlet, Alaska.	73 FR 62919, Oct 22, 2008.	226.220	NA.
Whale, blue	<i>Balaenoptera musculus</i> .	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.
Whale, bowhead	<i>Balaena mysticetus</i>	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.
Whale, false killer (Main Hawaiian Islands Insular DPS).	<i>Pseudorca crassidens</i> .	False killer whales found from nearshore of the main Hawaiian Islands out to 140 km (approximately 75 nautical miles) and that permanently reside within this geographic range.	77 FR 70915, November 28, 2012.	NA	NA.
Whale, fin or finback.	<i>Balaenoptera physalus</i> .	Entire species	35 FR 8491, June 2, 1970.	NA	NA.
Whale, gray (Western North Pacific DPS).	<i>Eschrichtius robustus</i> .	Western North Pacific (Korean) gray whales.	35 FR 8491, June 2, 1970; 59 FR 31094, June 16, 1994.	NA	NA.
Whale, humpback ..	<i>Megaptera novaeangliae</i> .	Entire species	35 FR 18319, Dec 2, 1970.	NA	224.103.
Whale, killer (Southern Resident DPS).	<i>Orcinus orca</i>	Killer whales from the J, K, and L pods.	80 FR 7380, Feb. 10, 2015.	226.206	224.103
Whale, North Atlantic right.	<i>Eubalaena glacialis</i>	Entire species	73 FR 12024, Mar 6, 2008.	226.203	224.103, 224.105.
Whale, North Pacific right.	<i>Eubalaena japonica</i> .	Entire species	73 FR 12024, Mar 6, 2008.	226.215	224.103.
Whale, sei	<i>Balaenoptera borealis</i> .	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.
Whale, Southern right.	<i>Eubalaena australis</i>	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.

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Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Whale, sperm	<i>Physeter macrocephalus</i> (= <i>catodon</i>).	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.

Sea Turtles ²

Sea turtle, green	<i>Chelonia mydas</i>	Breeding colony populations in Florida and on the Pacific coast of Mexico.	43 FR 32800, July 28, 1978.	226.208	224.104.
Sea turtle, hawksbill	<i>Eretmochelys imbricata</i> .	Entire species	35 FR 8491, June 2, 1970.	226.209	224.104.
Sea turtle, Kemp's ridley.	<i>Lepidochelys kempi</i> .	Entire species	35 FR 18319, Dec 2, 1970.	NA	224.104.
Sea turtle, leatherback.	<i>Dermochelys coriacea</i> .	Entire species	35 FR 8491, June 2, 1970.	226.207	224.104.
Sea turtle, loggerhead (Mediterranean Sea DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the Mediterranean Sea.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, loggerhead (North Indian Ocean DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the North Indian Ocean.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, loggerhead (North Pacific Ocean DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the North Pacific Ocean.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, loggerhead (Northeast Atlantic Ocean DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the Northeast Atlantic Ocean east of 40° W. Long., except in the vicinity of the Strait of Gibraltar where the eastern boundary is 5°36' W. Long.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, loggerhead (South Pacific Ocean DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the South Pacific Ocean west of 67° W. Long., and east of 141° E. Long.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, olive ridley.	<i>Lepidochelys olivacea</i> .	Breeding colony populations on the Pacific coast of Mexico.	43 FR 32800, July 28, 1978.	NA	224.104.

Fishes

Bocaccio (Puget Sound/Georgia Basin DPS).	<i>Sebastes paucispinis</i> .	Bocaccio originating from Puget Sound and the Georgia Basin.	75 FR 22276, Apr 28, 2010.	226.224	NA.
Salmon, Atlantic (Gulf of Maine DPS).	<i>Salmo salar</i>	Naturally spawned Atlantic salmon originating from the Gulf of Maine, including such Atlantic salmon originating from watersheds from the Androscoggin River northward along the Maine coast to the Dennys River. Also, Atlantic salmon from two artificial propagation programs: Green Lake National Fish Hatchery (GLNFH) and Craig Brook National Fish Hatchery (CBNFH). This DPS does not include landlocked salmon and those salmon raised in commercial hatcheries for aquaculture.	74 FR 29344, June 19, 2009.	226.217	NA.

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Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Salmon, Chinook (Sacramento River winter-run ESU).	<i>Oncorhynchus tshawytscha</i> .	Naturally spawned winter-run Chinook salmon originating from the Sacramento River and its tributaries. Also, winter-run Chinook salmon from one artificial propagation program: the Livingston Stone National Fish Hatchery.	70 FR 37160, June 28, 2005.	226.204	NA.
Salmon, Chinook (Upper Columbia River spring-run ESU).	<i>Oncorhynchus tshawytscha</i> .	Naturally spawned spring-run Chinook salmon originating from Columbia River tributaries upstream of the Rock Island Dam and downstream of Chief Joseph Dam (excluding the Okanogan River subbasin). Also, spring-run Chinook salmon from six artificial propagation programs: the Twisp River Program; Chewuch River Program; Methow Program; Winthrop National Fish Hatchery Program; Chiwawa River Program; and the White River Program.	70 FR 37160, June 28, 2005.	226.212	NA.
Salmon, coho (Central California Coast ESU).	<i>Oncorhynchus kisutch</i> .	Naturally spawned coho salmon originating from rivers south of Punta Gorda, California to and including Aptos Creek, as well as such coho salmon originating from tributaries to San Francisco Bay. Also, coho salmon from three artificial propagation programs: the Don Clausen Fish Hatchery Captive Broodstock Program; the Scott Creek/King Fisher Flats Conservation Program; and the Scott Creek Captive Broodstock Program.	70 FR 37160, June 28, 2005; 77 FR 19552, Apr 2, 2012.	226.210	NA.
Salmon, sockeye (Snake River ESU).	<i>Oncorhynchus nerka</i> .	Naturally spawned anadromous and residual sockeye salmon originating from the Snake River basin. Also, sockeye salmon from one artificial propagation program: the Redfish Lake Captive Broodstock Program.	70 FR 37160, June 28, 2005.	226.205	NA.
Sawfish, dwarf	<i>Pristis clavata</i>	Entire species	79 FR 73978, 12/12/2014.	NA	NA
Sawfish, green	<i>Pristis zijsron</i>	Entire species	79 FR 73978, 12/12/2014.	NA	NA
Sawfish, largetooth	<i>Pristis pristis</i> (formerly <i>Pristis perotteti</i> , <i>Pristis pristis</i> , and <i>Pristis microdon</i>).	Entire species	79 FR 73978, 12/12/2014.	NA	NA
Sawfish, narrow	<i>Anoxypristis cuspidata</i> .	Entire species	79 FR 73978, 12/12/2014.	NA	NA
Sawfish, smalltooth (United States DPS).	<i>Pristis pectinata</i>	Smalltooth sawfish originating from U.S. waters.	68 FR 15674, Apr 1, 2003.	226.218	NA.

Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Sawfish, smalltooth (Non-U.S. DPS).	<i>Pristis pectinata</i>	Smalltooth sawfish originating from non-U.S. waters.	79 FR 73978, 12/12/2014.	NA	NA
Shark, scalloped hammerhead (Eastern Atlantic DPS).	<i>Sphyrna lewini</i>	Scalloped hammerhead sharks originating from the Eastern Atlantic Ocean, including all waters of the Mediterranean Sea, and delineated by the following boundary lines: bounded to the west by 30° W. long., to the north by 40° N. lat., to the south by 36° S. lat., and to the east by 20° E. long.	79 FR 38214, Jul 3, 2014.	NA	NA
Shark, scalloped hammerhead (Eastern Pacific DPS).	<i>Sphyrna lewini</i>	Scalloped hammerhead sharks originating from the Eastern Pacific Ocean, delineated by the following boundary lines: bounded to the north by 40° N lat. and to the south by 36° S lat. The western boundary line extends from 140° W. long. due south to 10° N., then due west along 10° N. lat. to 150° W. long., then due south to 4° S. lat., then due east along 4° S. lat. to 130° W. long. and then extends due south along 130° W. long.	79 FR 38214, Jul 3, 2014.	NA	NA
Steelhead (Southern California DPS).	<i>Oncorhynchus mykiss</i> .	Naturally spawned anadromous <i>O. mykiss</i> (steelhead) originating below natural and man-made impassable barriers from the Santa Maria River to the U.S.-Mexico Border.	71 FR 834, Jan 5, 2006.	226.211	NA.
Sturgeon, Adriatic ..	<i>Acipenser naccarii</i>	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, Atlantic (Atlantic subspecies; Carolina DPS).	<i>Acipenser oxyrinchus oxyrinchus</i> .	Atlantic sturgeon originating from watersheds (including all rivers and tributaries) from Albemarle Sound southward along the southern Virginia, North Carolina, and South Carolina coastal areas to Charleston Harbor.	77 FR 5914, Feb 6, 2012.	NA	NA.
Sturgeon, Atlantic (Atlantic subspecies; Chesapeake Bay DPS).	<i>Acipenser oxyrinchus oxyrinchus</i> .	Anadromous Atlantic sturgeon originating from watersheds that drain into the Chesapeake Bay and into coastal waters from the Delaware-Maryland border on Fenwick Island to Cape Henry, Virginia.	77 FR 5880, Feb 6, 2012.	NA	NA.
Sturgeon, Atlantic (Atlantic subspecies; New York Bight DPS).	<i>Acipenser oxyrinchus oxyrinchus</i> .	Anadromous Atlantic sturgeon originating from watersheds that drain into coastal waters, including Long Island Sound, the New York Bight, and Delaware Bay, from Chatham, Massachusetts to the Delaware-Maryland border on Fenwick Island.	77 FR 5880, Feb 6, 2012.	NA	NA.

Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Sturgeon, Atlantic (Atlantic subspecies; South Atlantic DPS).	<i>Acipenser oxyrinchus oxyrinchus</i> .	Atlantic sturgeon originating from watersheds (including all rivers and tributaries) of the ACE (Ashepoo, Combahee, and Edisto) Basin southward along the South Carolina, Georgia, and Florida coastal areas to the St. Johns River, Florida.	77 FR 5914, Feb 6, 2012.	NA	NA.
Sturgeon, Chinese	<i>Acipenser sinensis</i>	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, European	<i>Acipenser sturio</i>	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, Kaluga ...	<i>Huso dauricus</i>	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, Sakhalin	<i>Acipenser mikadoi</i>	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, shortnose	<i>Acipenser brevirostrum</i> .	Entire species	32 FR 4001, Mar 11, 1967.	NA	NA.
Totoaba	<i>Cynoscion macdonaldi</i> .	Entire species	44 FR 29480, May 21, 1979.	NA	NA.
Molluscs					
Abalone, black	<i>Haliotis cracherodii</i>	Entire species	74 FR 1937, Jan 14, 2009.	226.221	NA.
Abalone, white	<i>Haliotis sorenseni</i>	Entire species	66 FR 29054, May, 29, 2001.	NA	NA.

¹ Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

² Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

[79 FR 20814, Apr. 14, 2014, as amended at 79 FR 31227, June 2, 2014; 79 FR 38241, July 3, 2014; 79 FR 74005, Dec. 12, 2014; 79 FR 78725, Dec. 31, 2014; 79 FR 68372, Nov. 17, 2014; 80 FR 7978, Feb. 13, 2015; 80 FR 7390, Feb. 10, 2015]

§ 224.102 Permits for endangered marine and anadromous species.

No person shall take, import, export, or engage in any activity prohibited by section 9 of the Act involving any marine species that has been determined to be endangered under the Endangered Species Conservation Act of 1969 or the Act, and that is under the jurisdiction of the Secretary, without a valid permit issued pursuant to part 222, subpart C of this chapter.

§ 224.103 Special prohibitions for endangered marine mammals.

(a) *Approaching humpback whales in Hawaii.* Except as provided in part 222, subpart C, of this chapter (General Permit Procedures), it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed,

within 200 nautical miles (370.4 km) of the Islands of Hawaii, any of the following acts with respect to humpback whales (*Megaptera novaeangliae*):

(1) Operate any aircraft within 1,000 feet (300 m) of any humpback whale;

(2) Approach, by any means, within 100 yard (90 m) of any humpback whale;

(3) Cause a vessel or other object to approach within 100 yd (90 m) of a humpback whale; or

(4) Disrupt the normal behavior or prior activity of a whale by any other act or omission. A disruption of normal behavior may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities, attempts by a whale to shield a calf from a vessel or

human observer by tail swishing or by other protective movement; or the abandonment of a previously frequented area.

(b) *Approaching humpback whales in Alaska*—(1) *Prohibitions*. Except as provided under paragraph (b)(2) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, within 200 nautical miles (370.4 km) of Alaska, or within inland waters of the state, any of the acts in paragraphs (b)(1)(i) through (b)(1)(iii) of this section with respect to humpback whales (*Megaptera novaeangliae*):

(i) Approach, by any means, including by interception (i.e., placing a vessel in the path of an oncoming humpback whale so that the whale surfaces within 100 yards (91.4 m) of the vessel), within 100 yards (91.4 m) of any humpback whale;

(ii) Cause a vessel or other object to approach within 100 yards (91.4 m) of a humpback whale; or

(iii) Disrupt the normal behavior or prior activity of a whale by any other act or omission, as described in paragraph (a)(4) of this section.

(2) *Exceptions*. The following exceptions apply to this paragraph (b), but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(i) Paragraph (b)(1) of this section does not apply if an approach is authorized by the National Marine Fisheries Service through a permit issued under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar authorization.

(ii) Paragraph (b)(1) of this section does not apply to the extent that a vessel is restricted in her ability to maneuver and, because of the restriction, cannot comply with paragraph (b)(1) of this section.

(iii) Paragraph (b)(1) of this section does not apply to commercial fishing vessels lawfully engaged in actively setting, retrieving or closely tending commercial fishing gear. For purposes of this paragraph (b), commercial fishing means taking or harvesting fish or fishery resources to sell, barter, or trade. Commercial fishing does not in-

clude commercial passenger fishing operations (i.e. charter operations or sport fishing activities).

(iv) Paragraph (b)(1) of this section does not apply to state, local, or Federal government vessels operating in the course of official duty.

(v) Paragraph (b)(1) of this section does not affect the rights of Alaska Natives under 16 U.S.C. 1539(e).

(vi) These regulations shall not take precedence over any more restrictive conflicting Federal regulation pertaining to humpback whales, including the regulations at 36 CFR 13.65 that pertain specifically to the waters of Glacier Bay National Park and Preserve.

(3) *General measures*. Notwithstanding the prohibitions and exceptions in paragraphs (b)(1) and (2) of this section, to avoid collisions with humpback whales, vessels must operate at a slow, safe speed when near a humpback whale. “Safe speed” has the same meaning as the term is defined in 33 U.S.C. 2006 and the International Regulations for Preventing Collisions at Sea 1972 (see 33 U.S.C. 1602), with respect to avoiding collisions with humpback whales.

(c) *Approaching right whales*—(1) *Prohibitions*. Except as provided under paragraph (c)(3) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, to solicit another to commit, or cause to be committed any of the following acts:

(i) Approach (including by interception) within 500 yards (460 m) of a right whale by vessel, aircraft, or any other means;

(ii) Fail to undertake required right whale avoidance measures specified under paragraph (c)(2) of this section.

(2) *Right whale avoidance measures*. Except as provided under paragraph (c)(3) of this section, the following avoidance measures must be taken if within 500 yards (460 m) of a right whale:

(i) If underway, a vessel must steer a course away from the right whale and immediately leave the area at a slow safe speed.

(ii) An aircraft must take a course away from the right whale and immediately leave the area at a constant airspeed.

(3) *Exceptions.* The following exceptions apply to this section, but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(i) Paragraphs (c)(1) and (c)(2) of this section do not apply if a right whale approach is authorized by the National Marine Fisheries Service through a permit issued under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar authorization.

(ii) Paragraphs (c)(1) and (c)(2) of this section do not apply where compliance would create an imminent and serious threat to a person, vessel, or aircraft.

(iii) Paragraphs (c)(1) and (c)(2) of this section do not apply when approaching to investigate a right whale entanglement or injury, or to assist in the disentanglement or rescue of a right whale, provided that permission is received from the National Marine Fisheries Service or designee prior to the approach.

(iv) Paragraphs (c)(1) and (c)(2) of this section do not apply to an aircraft unless the aircraft is conducting whale watch activities.

(v) Paragraph (c)(2) of this section does not apply to the extent that a vessel is restricted in her ability to maneuver and, because of the restriction, cannot comply with paragraph (c)(2) of this section.

(d) *Special prohibitions relating to endangered Steller sea lion protection—(1)*

General Prohibitions. The following regulatory provisions shall apply to the western population of Steller sea lions:

(i) *No discharge of firearms.* Except as provided in paragraph (d)(2) of this section, no person subject to the jurisdiction of the United States may discharge a firearm at or within 100 yards (91.4 meters) of a Steller sea lion west of 144 °W longitude. A firearm is any weapon, such as a pistol or rifle, capable of firing a missile using an explosive charge as a propellant.

(ii) *No approach in buffer areas.* Except as provided in paragraph (d)(2) of this section:

(A) No owner or operator of a vessel may allow the vessel to approach within 3 nautical miles (5.5 kilometers) of a Steller sea lion rookery site listed in paragraph (d)(1)(iii) of this section;

(B) No person may approach on land not privately owned within one-half statutory mile (0.8 kilometers) or within sight of a Steller sea lion rookery site listed in paragraph (d)(1)(iii) of this section, whichever is greater, except on Marmot Island; and

(C) No person may approach on land not privately owned within one and one-half statutory miles (2.4 kilometers) or within sight of the eastern shore of Marmot Island, including the Steller sea lion rookery site listed in paragraph (d)(1)(iii) of this section, whichever is greater.

(iii) *Listed sea lion rookery sites.* Listed Steller sea lion rookery sites consist of the rookeries in the Aleutian Islands and the Gulf of Alaska listed in Table 1.

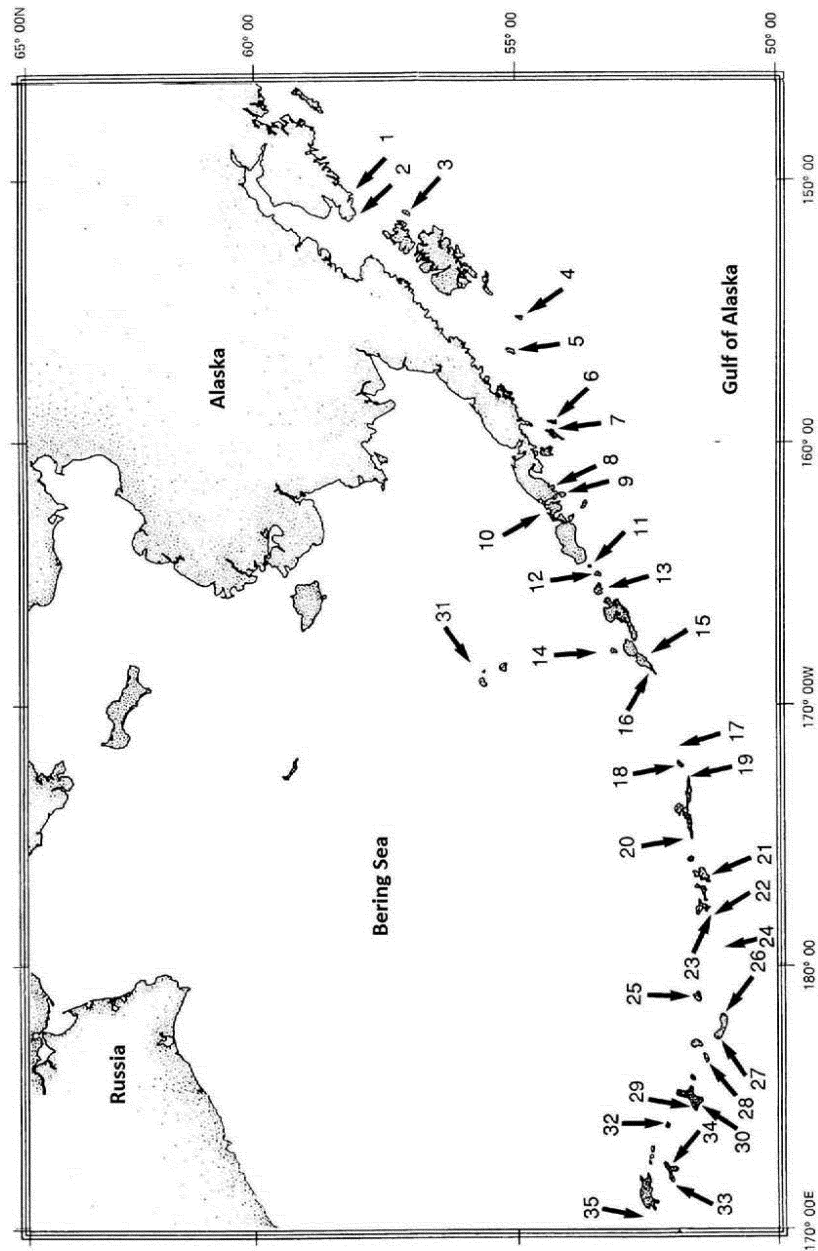
TABLE 1 TO § 224.103—LISTED STELLER SEA LION ROOKERY SITES ¹

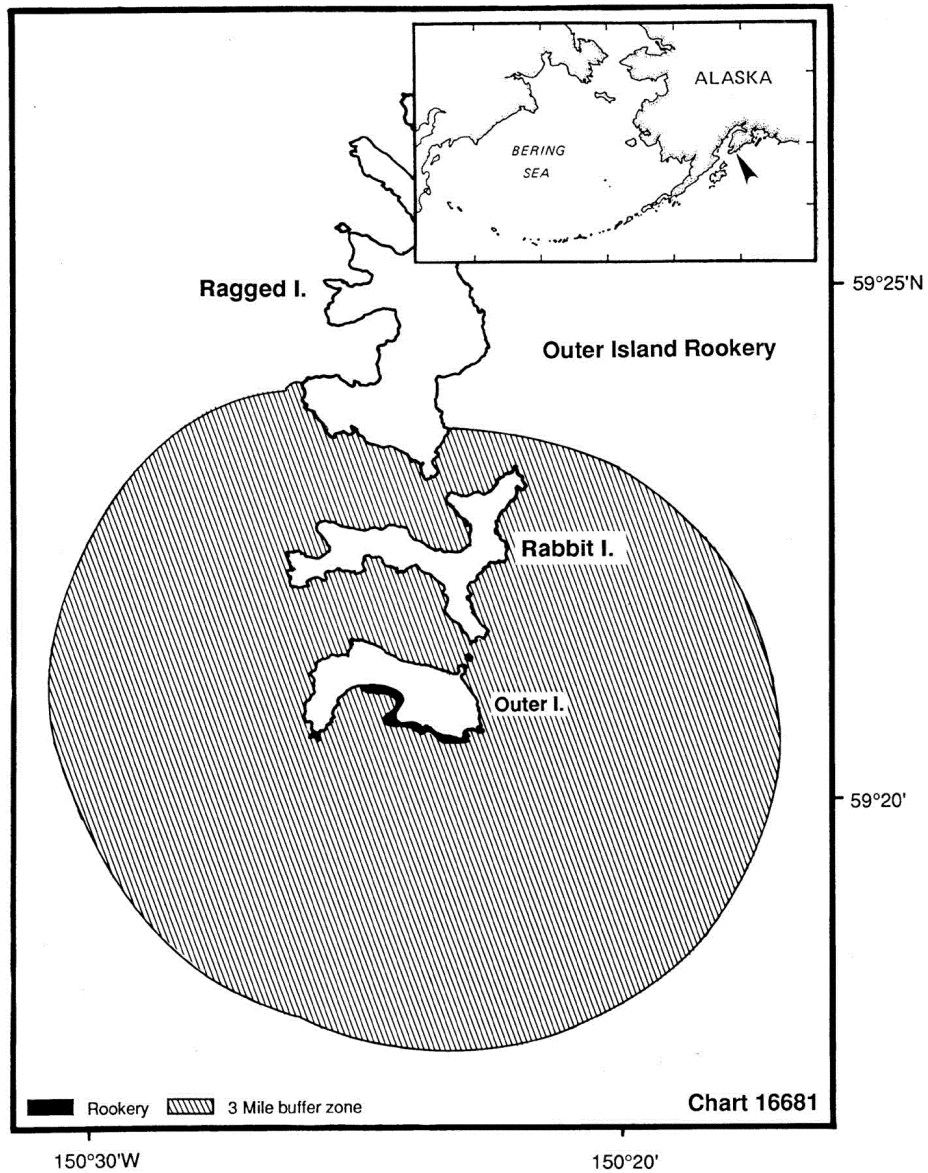
Island	From		To		NOAA Chart	Notes
	Lat.	Long.	Lat.	Long.		
1. Outer I.	59°20.5 N	150°23.0 W	59°21.0 N	150°24.5 W	16681	S quadrant.
2. Sugarloaf I.	58°53.0 N	152°02.0 W			16580	Whole island.
3. Marmot I.	58°14.5 N	151°47.5 W	58°10.0 N	151°51.0 W	16580	SE quadrant.
4. Chirikof I.	55°46.5 N	155°39.5 W	55°46.5 N	155°43.0 W	16580	S quadrant.
5. Chowiet I.	56°00.5 N	156°41.5 W	56°00.5 N	156°42.0 W	16013	S quadrant.
6. Atkins I.	55°03.5 N	159°18.5 W			16540	Whole island.
7. Chernabura I.	54°47.5 N	159°31.0 W	54°45.5 N	159°33.5 W	16540	SE corner.
8. Pinnacle Rock	54°46.0 N	161°46.0 W			16540	Whole island.
9. Clubbing Rks (N).	54°43.0 N	162°26.5 W			16540	Whole island.
Clubbing Rks (S)	54°42.0 N	162°26.5 W			16540	Whole island.
10. Sea Lion Rks	55°28.0 N	163°12.0 W			16520	Whole island.
11. Ugamak I.	54°14.0 N	164°48.0 W	54°13.0 N	164°48.0 W	16520	E end of island.
12. Akun I.	54°18.0 N	165°32.5 W	54°18.0 N	165°31.5 W	16547	Billings Head Bight.

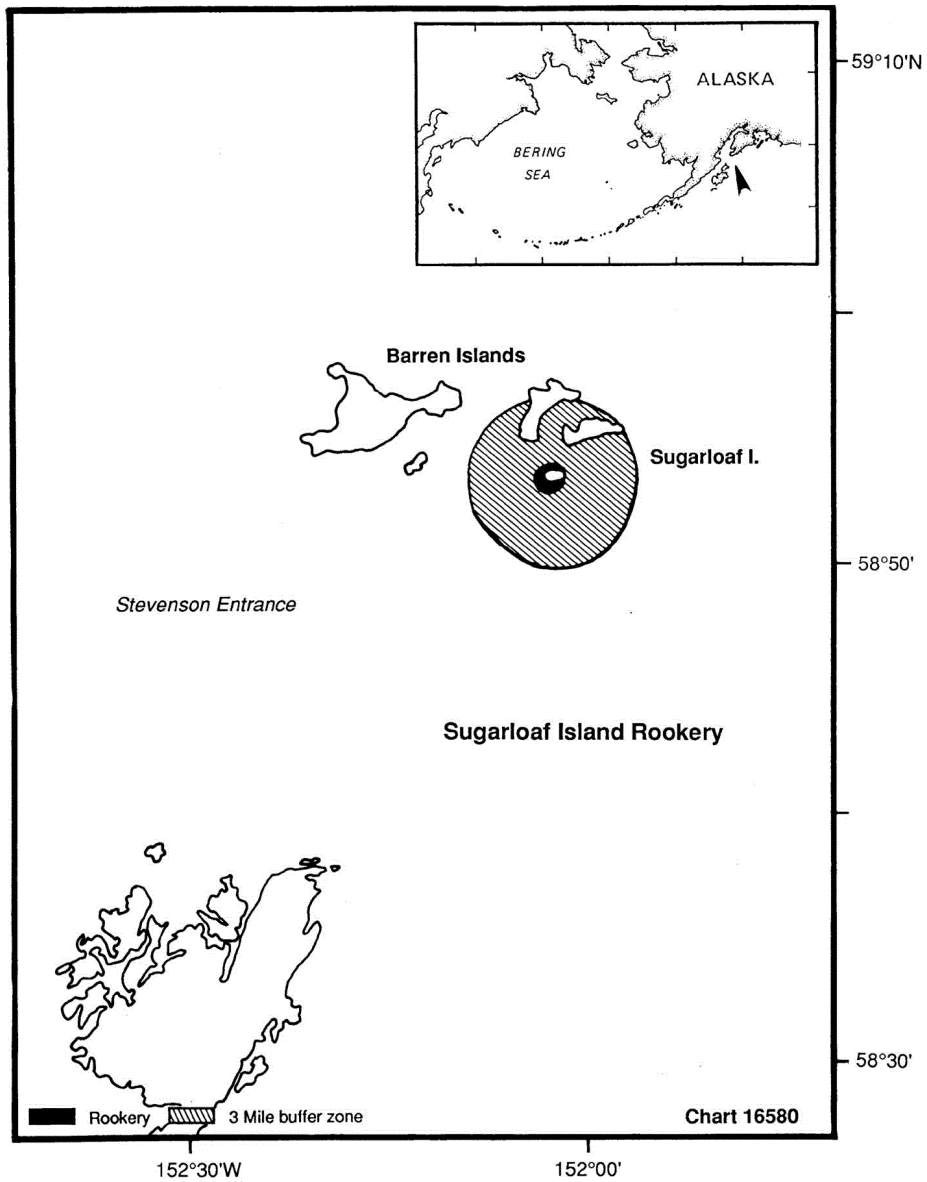
TABLE 1 TO § 224.103—LISTED STELLER SEA LION ROOKERY SITES¹—Continued

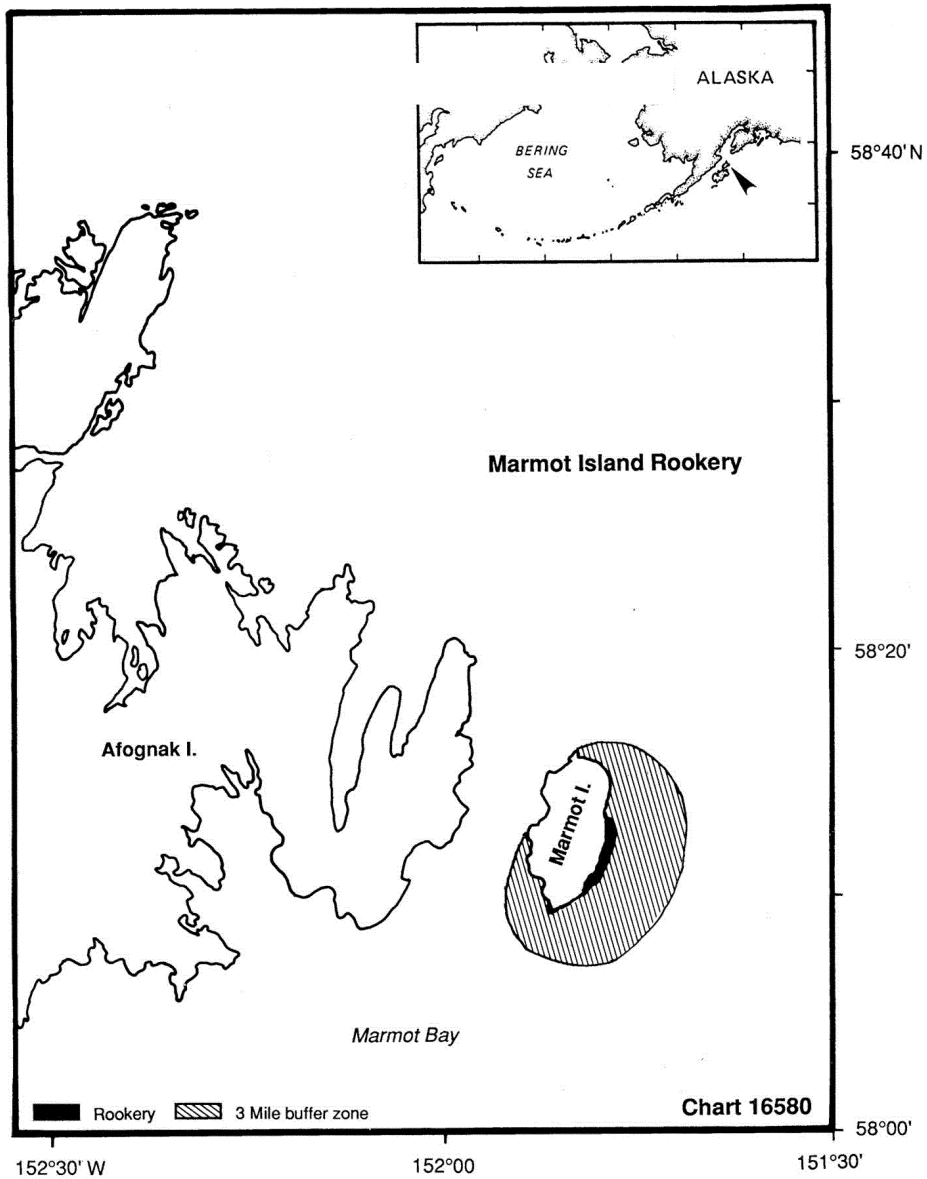
Island	From		To		NOAA Chart	Notes
	Lat.	Long.	Lat.	Long.		
13. Akutan I.	54°03.5 N	166°00.0 W	54°05.5 N	166°05.0 W	16520	SW corner, Cape Morgan.
14. Bogoslof I.	53°56.0 N	168°02.0 W			16500	Whole island.
15. Ogchul I.	53°00.0 N	168°24.0 W			16500	Whole island.
16. Adugak I.	52°55.0 N	169°10.5 W			16500	Whole island.
17. Yunaska I.	52°42.0 N	170°38.5 W	52°41.0 N	170°34.5 W	16500	NE end.
18. Seguam I.	52°21.0 N	172°35.0 W	52°21.0 N	172°33.0 W	16480	N coast, Saddleridge Pt.
19. Agligadak I. ..	52°06.5 N	172°54.0 W			16480	Whole island.
20. Kasatochi I. ..	52°10.0 N	175°31.5 W	52°10.5 N	175°29.0 W	16480	N half of island.
21. Adak I.	51°36.5 N	176°59.0 W	51°38.0 N	176°59.5 W	16460	SW Point, Lake Point.
22. Gramp rock ..	51°29.0 N	178°20.5 W			16460	Whole island.
23. Tag I.	51°33.5 N	178°34.5 W			16460	Whole island.
24. Ulak I.	51°20.0 N	178°57.0 W	51°18.5 N	178°59.5 W	16460	SE corner, Hasgox Pt.
25. Semisopochnoi.	51°58.5 N	179°45.5 E	51°57.0 N	179°46.0 E	16440	E quadrant, Pochnoi Pt.
Semisopochnoi ...	52°01.5 N	179°37.5 E	52°01.5 N	179°39.0 E	16440	N quadrant, Petrel Pt.
26. Amchitka I. ...	51°22.5 N	179°28.0 E	51°21.5 N	179°25.0 E	16440	East Cape.
27. Amchitka I. ...	51°32.5 N	178°49.5 E			16440	Column Rocks.
28. Ayugadak Pt.	51°45.5 N	178°24.5 E			16440	SE coast of Rat Island.
29. Kiska I.	51°57.5 N	177°21.0 E	51°56.5 N	177°20.0 E	16440	W central, Lief Cove.
30. Kiska I.	51°52.5 N	177°13.0 E	51°53.5 N	177°12.0 E	16440	Cape St. Stephen.
31. Walrus I.	57°11.0 N	169°56.0 W			16380	Whole island.
32. Buldir I.	52°20.5 N	175°57.0 E	52°23.5 N	175°51.0 E	16420	Se point to NW point.
33. Agattu I.	52°24.0 N	173°21.5 E			16420	Gillion Point.
34. Agattu I.	52°23.5 N	173°43.5 E	52°22.0 N	173°41.0 E	16420	Cape Sabak.
35. Attu I.	52°54.5 N	172°28.5 E	52°57.5 N	172°31.5 E	16681	S Quadrant.

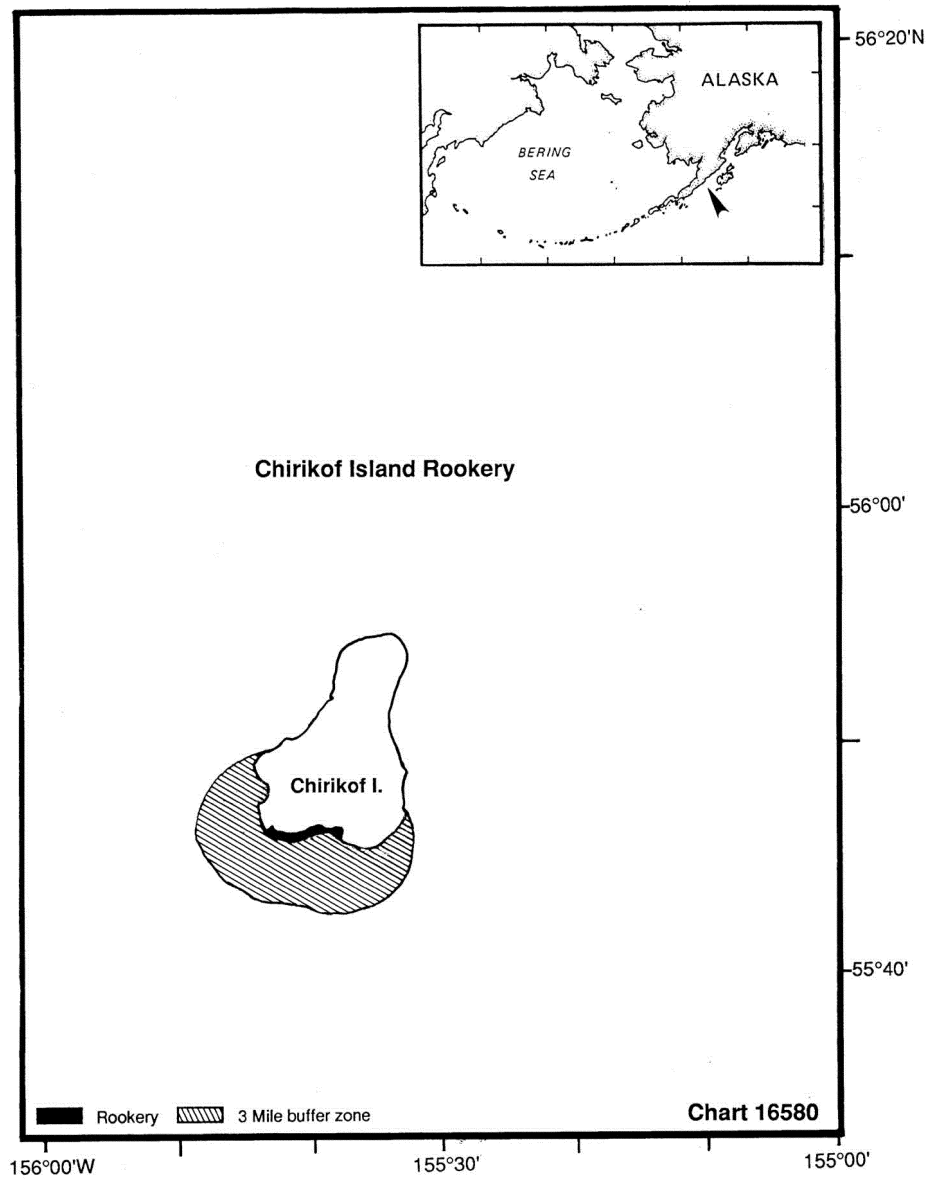
¹ Each site extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower low water to the second set of coordinates; or, if only one set of geographic coordinates is listed, the site extends around the entire shoreline of the island at mean lower low water.

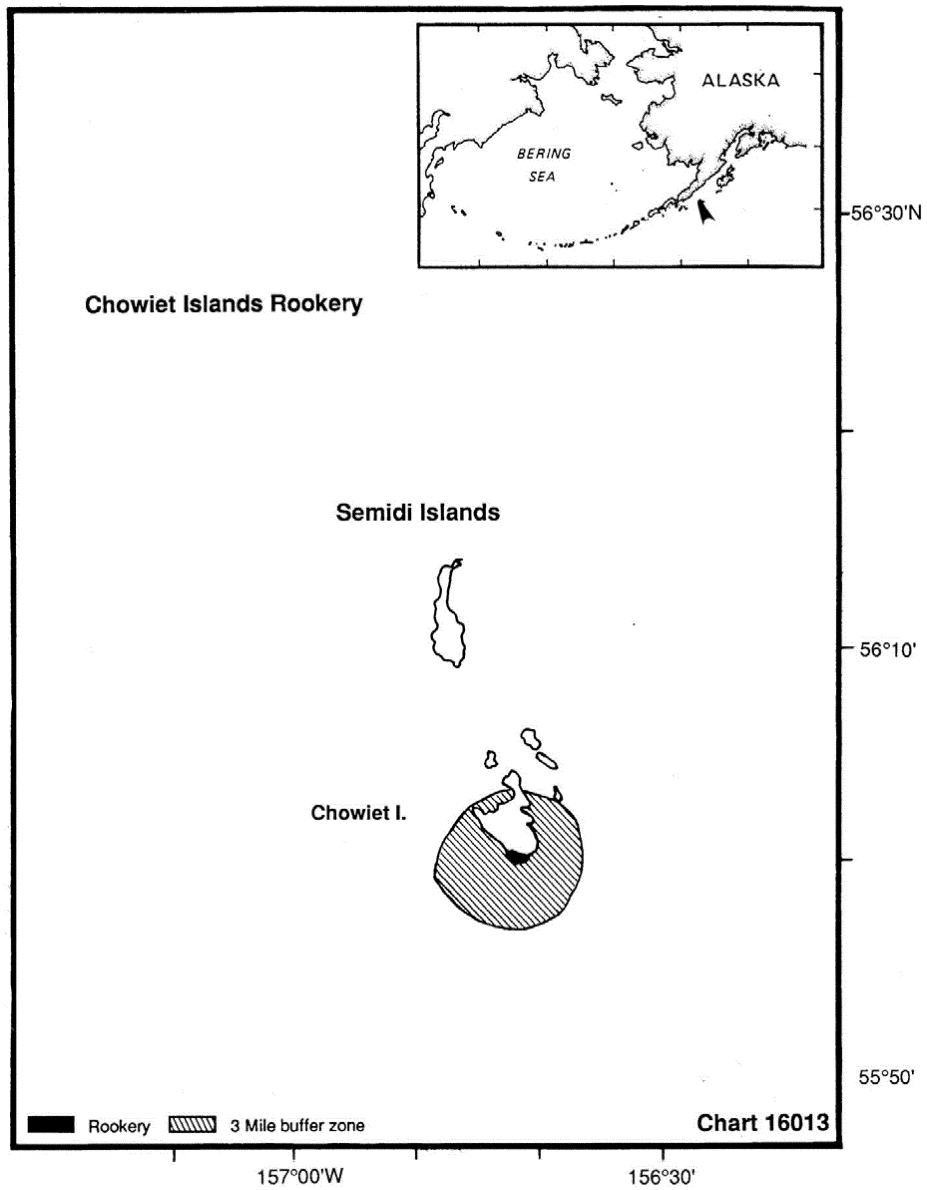


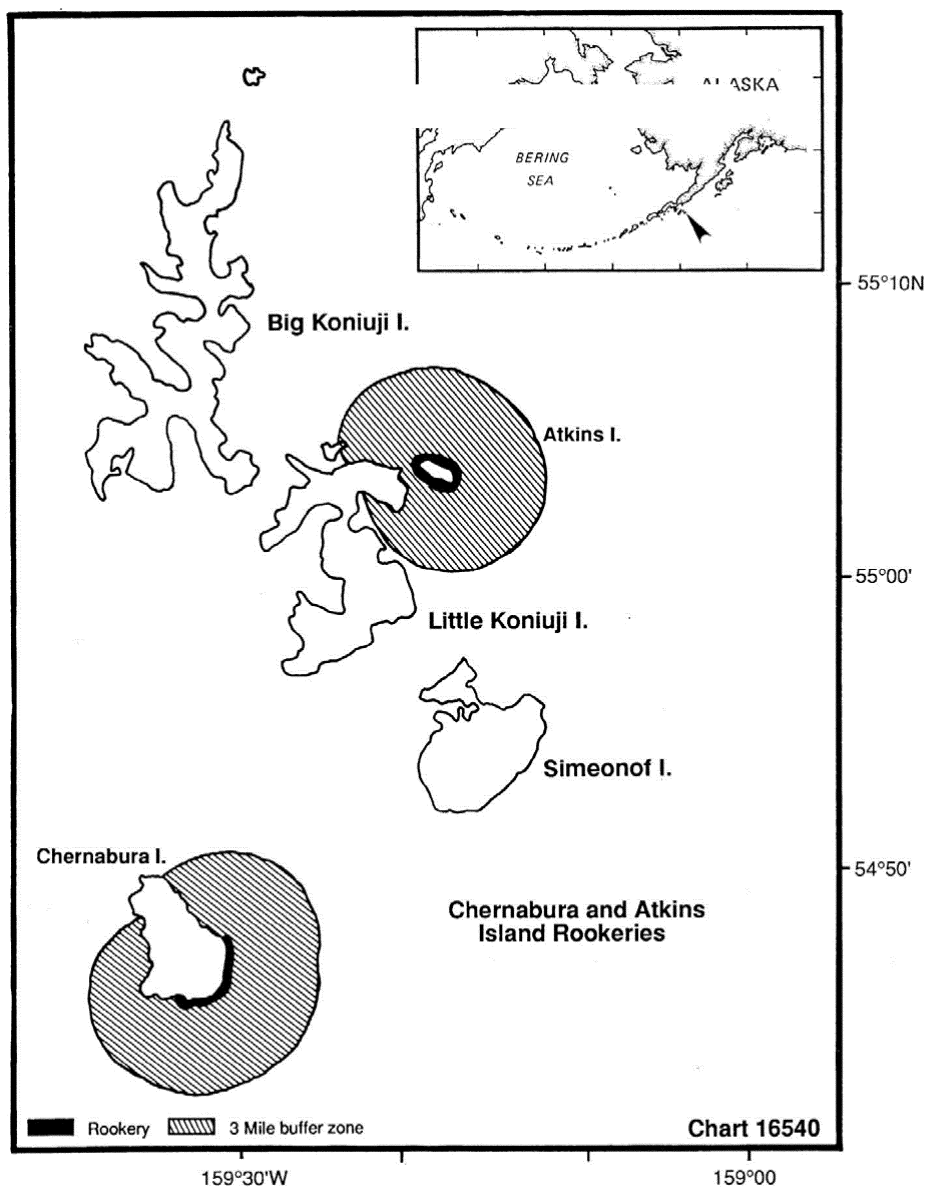


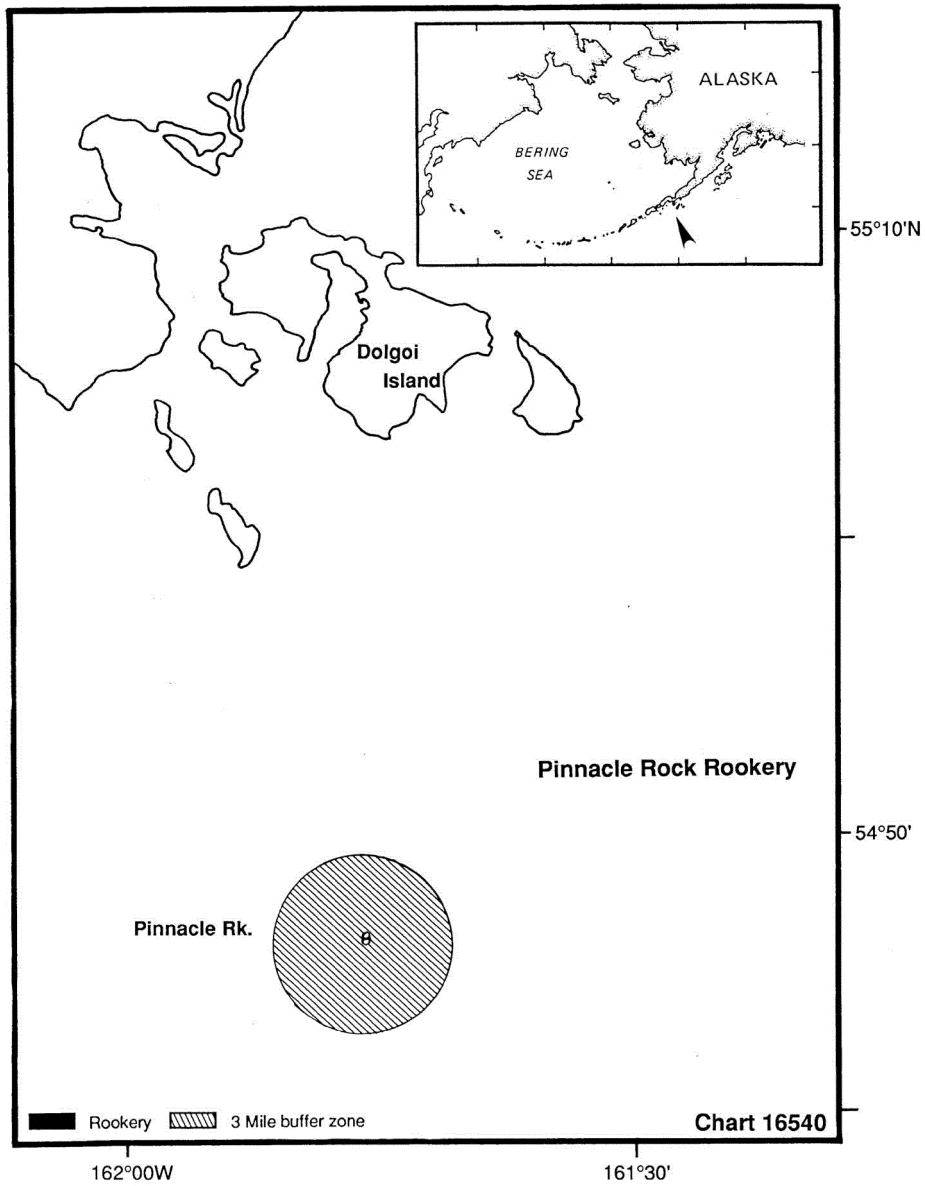


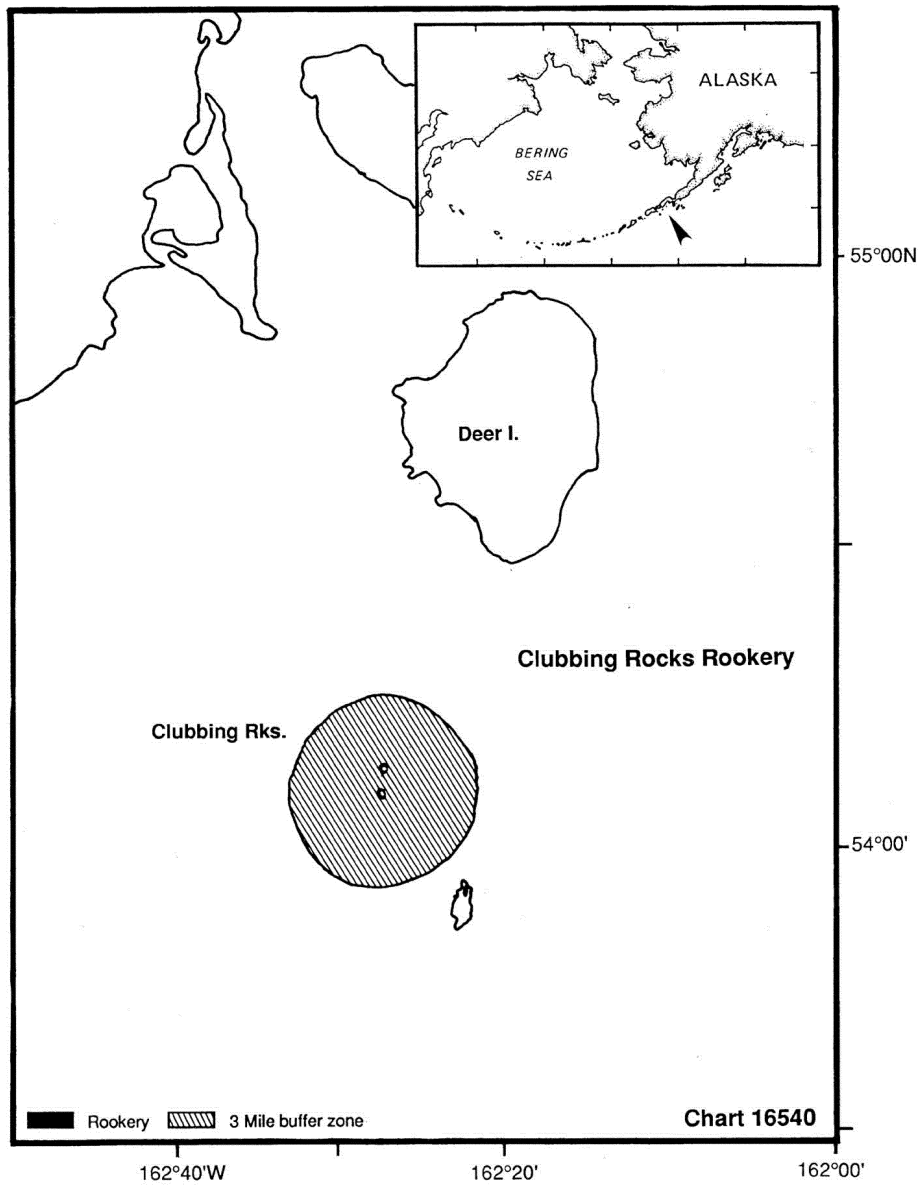


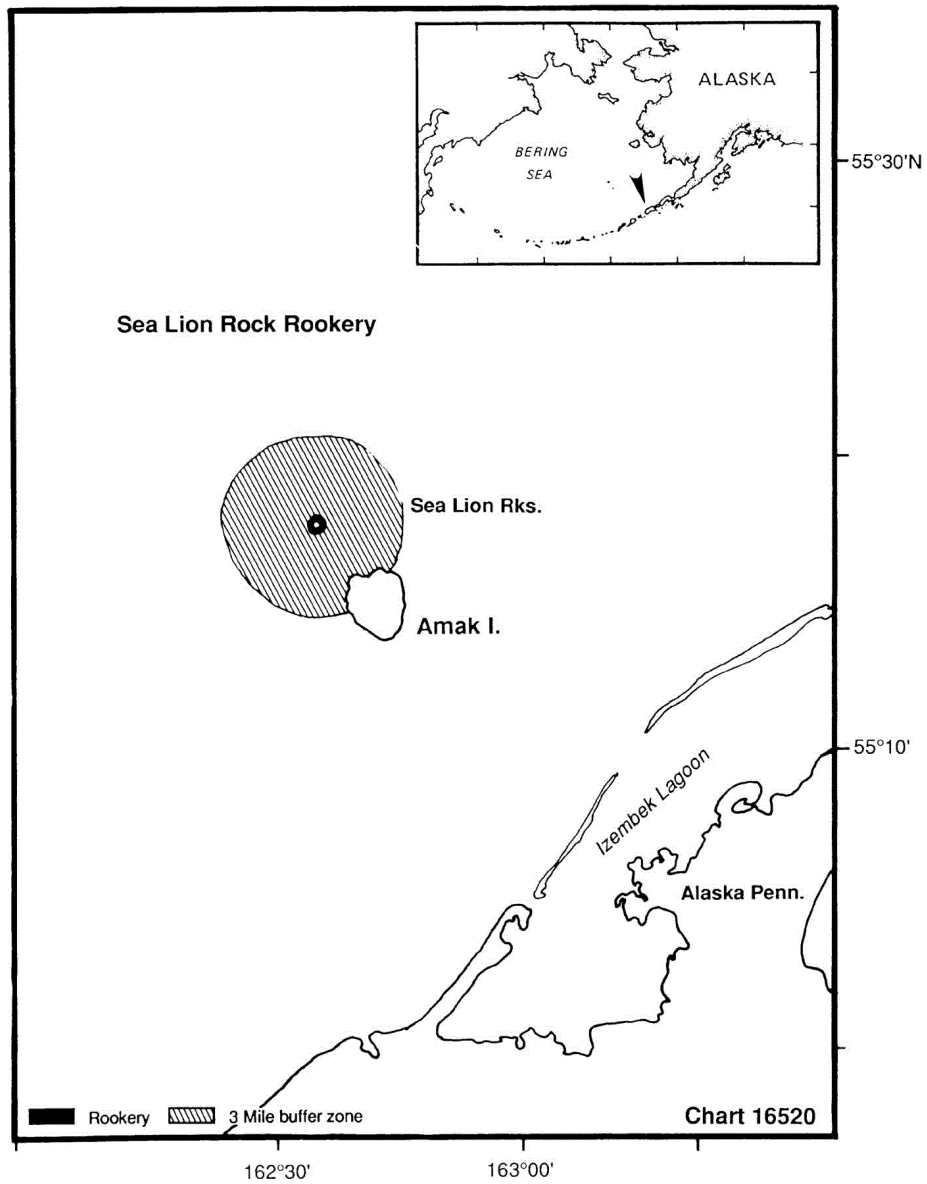


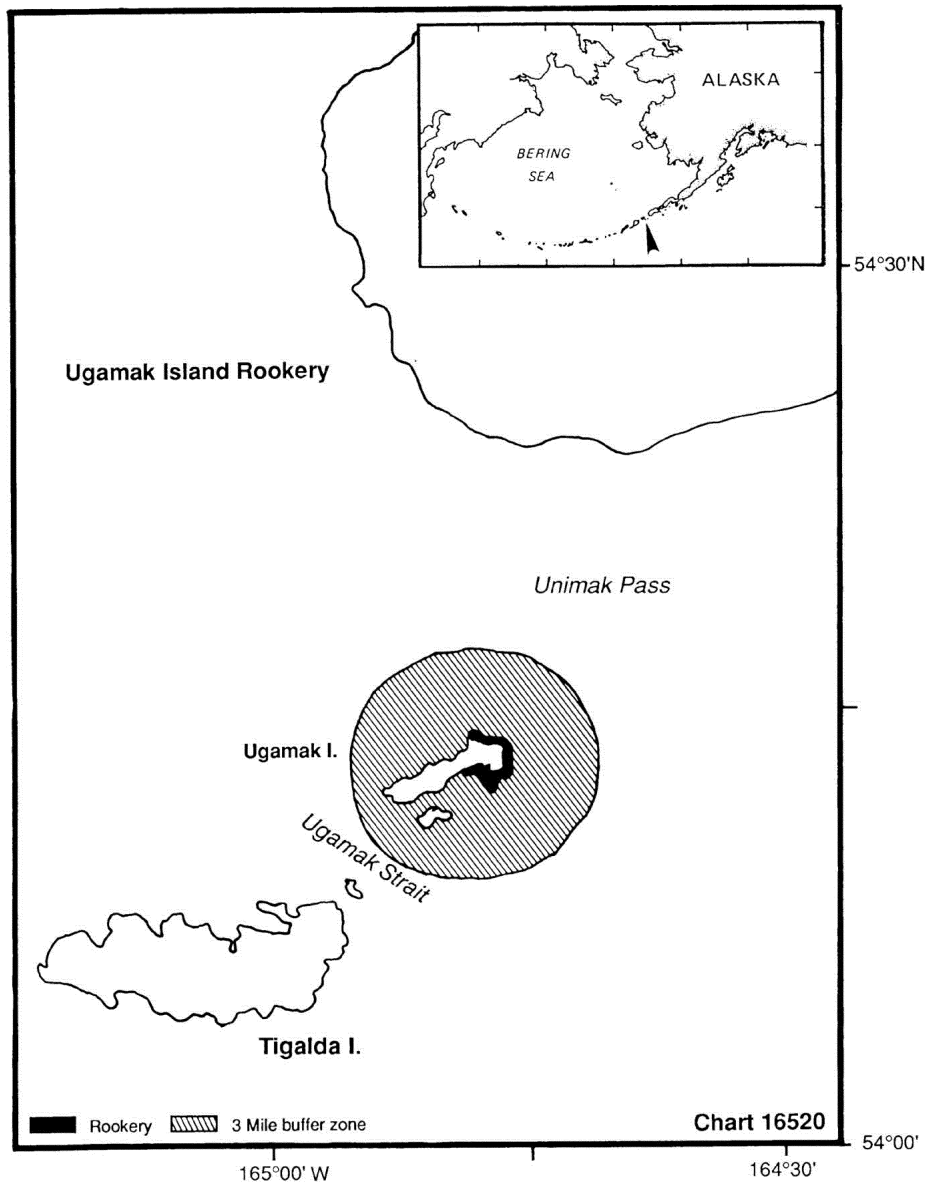


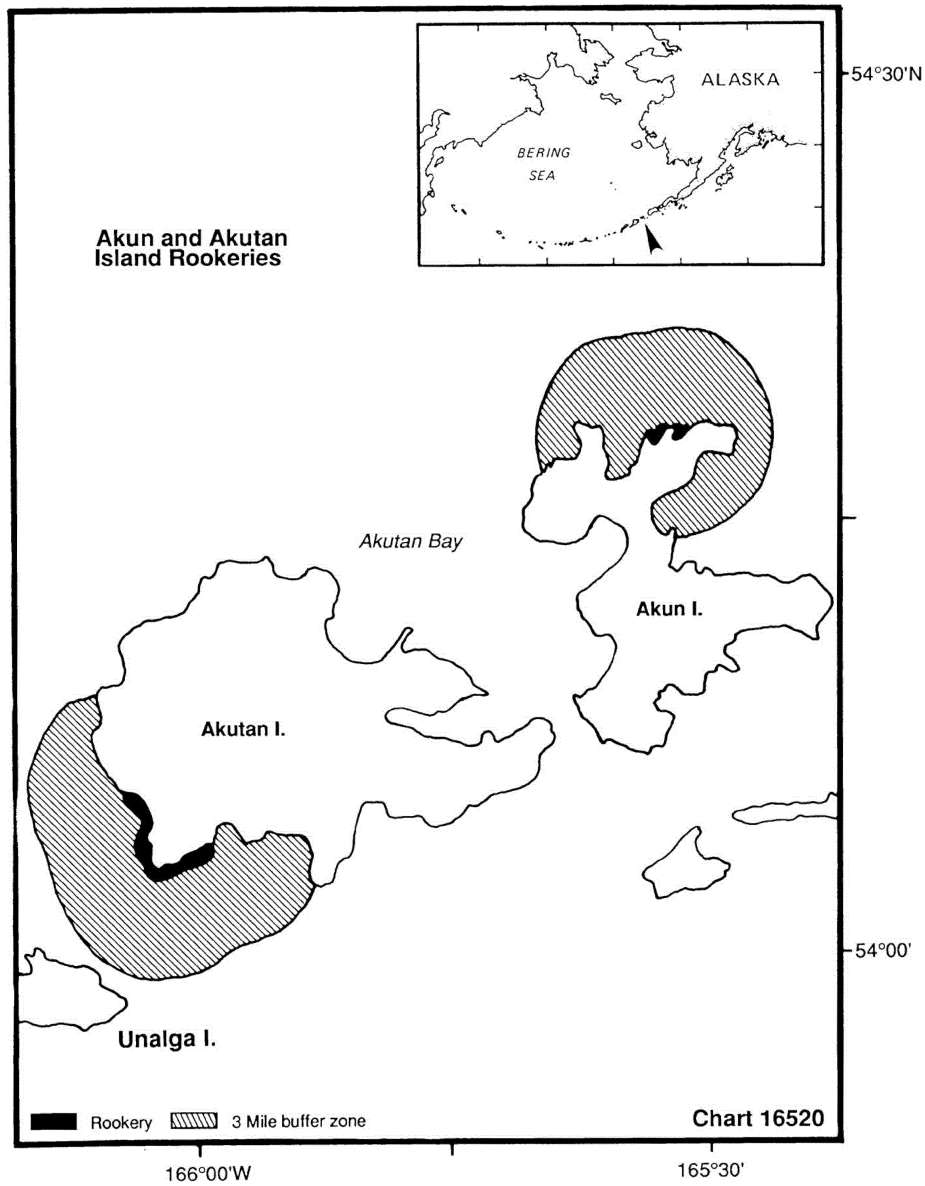


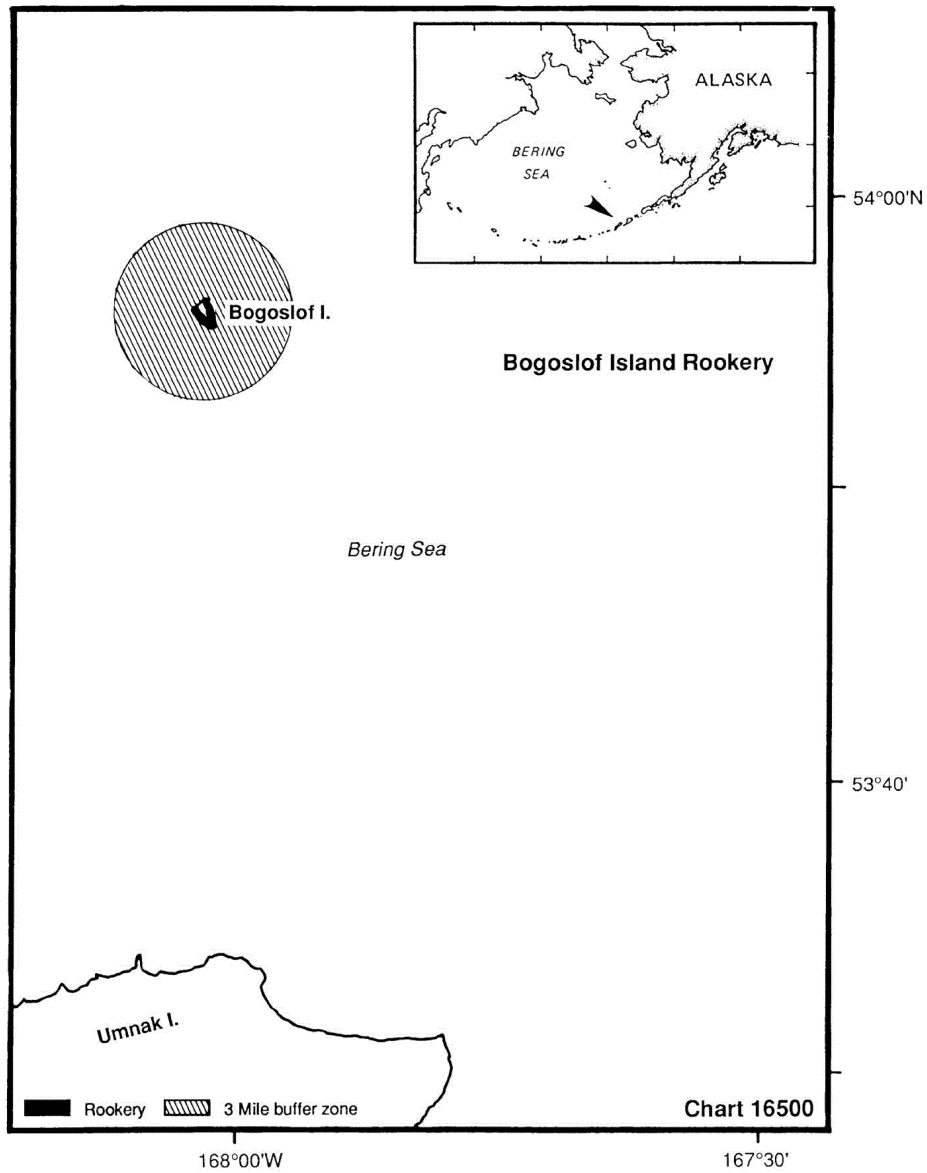


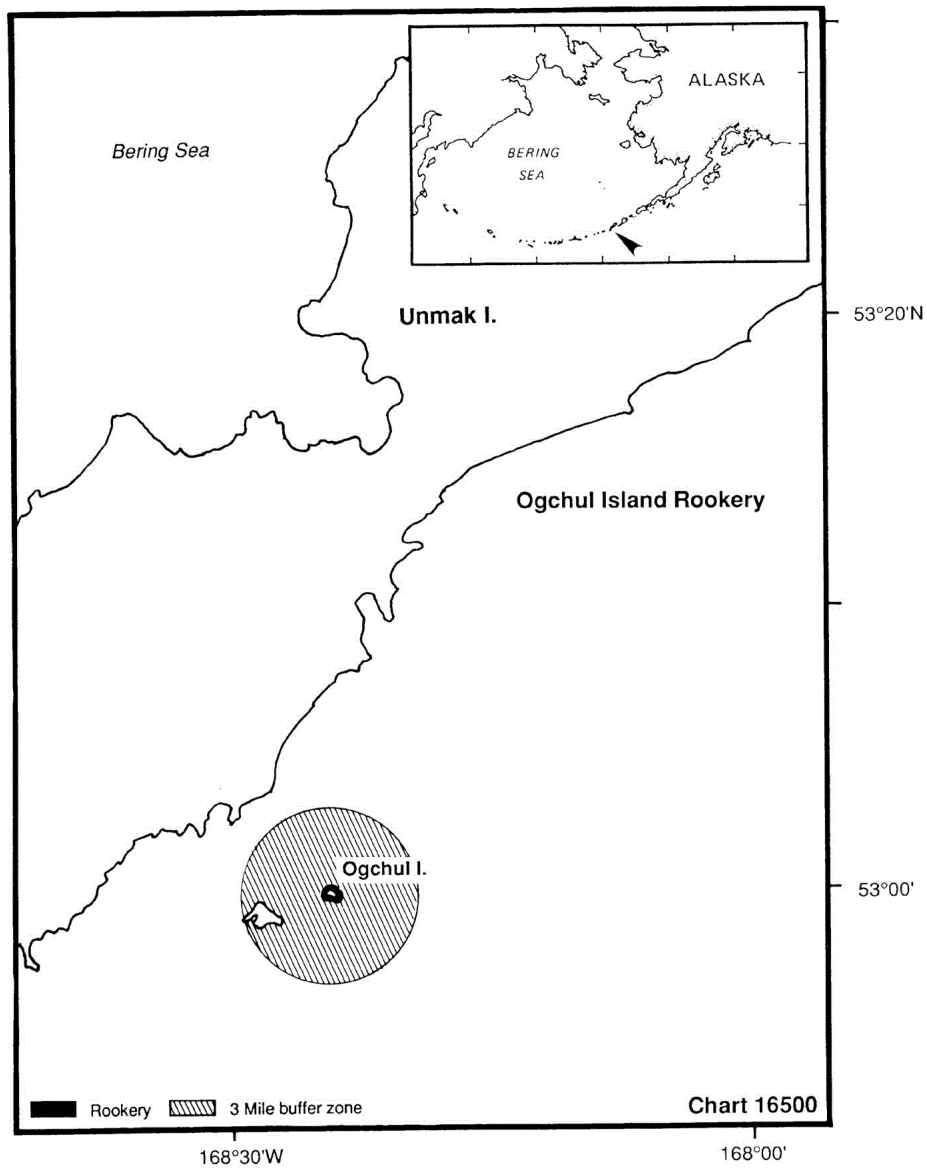


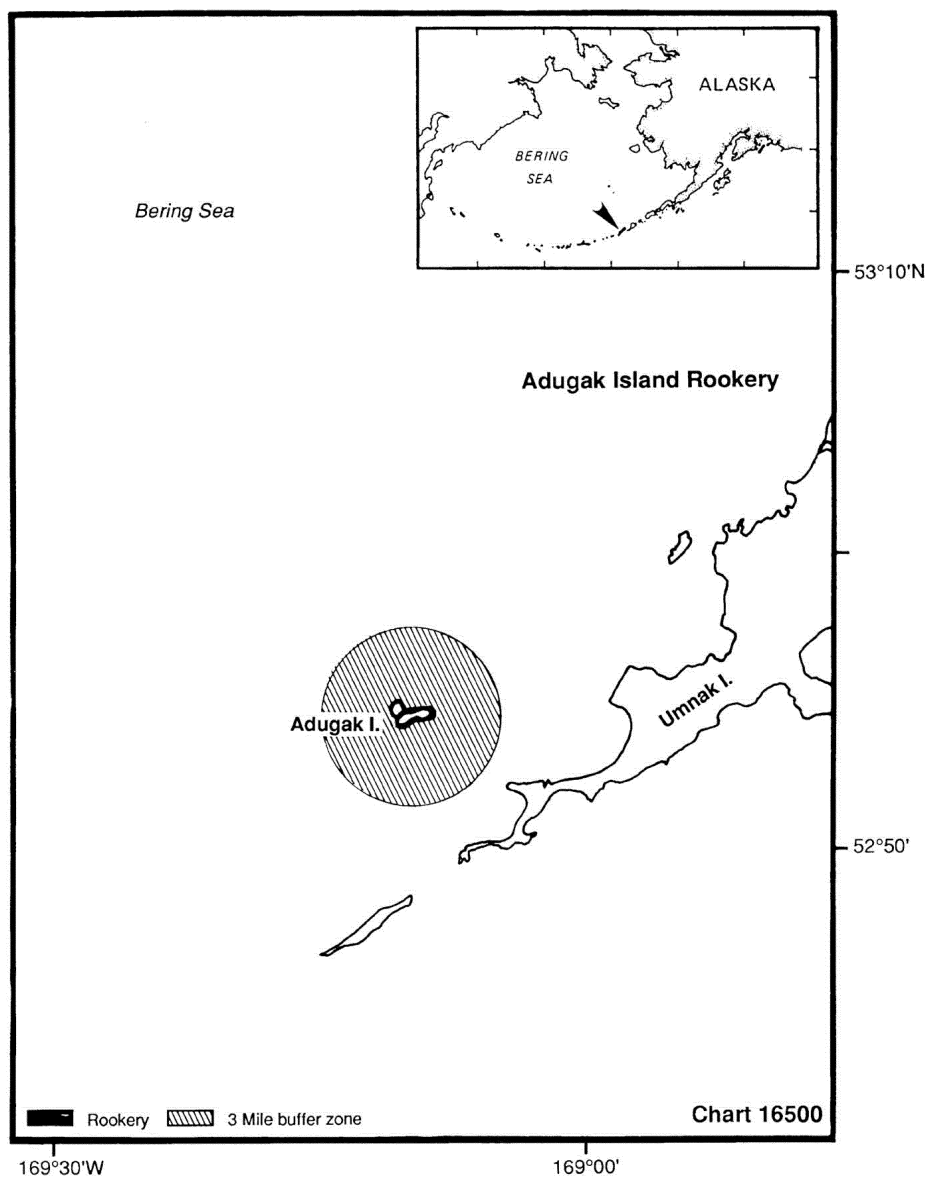


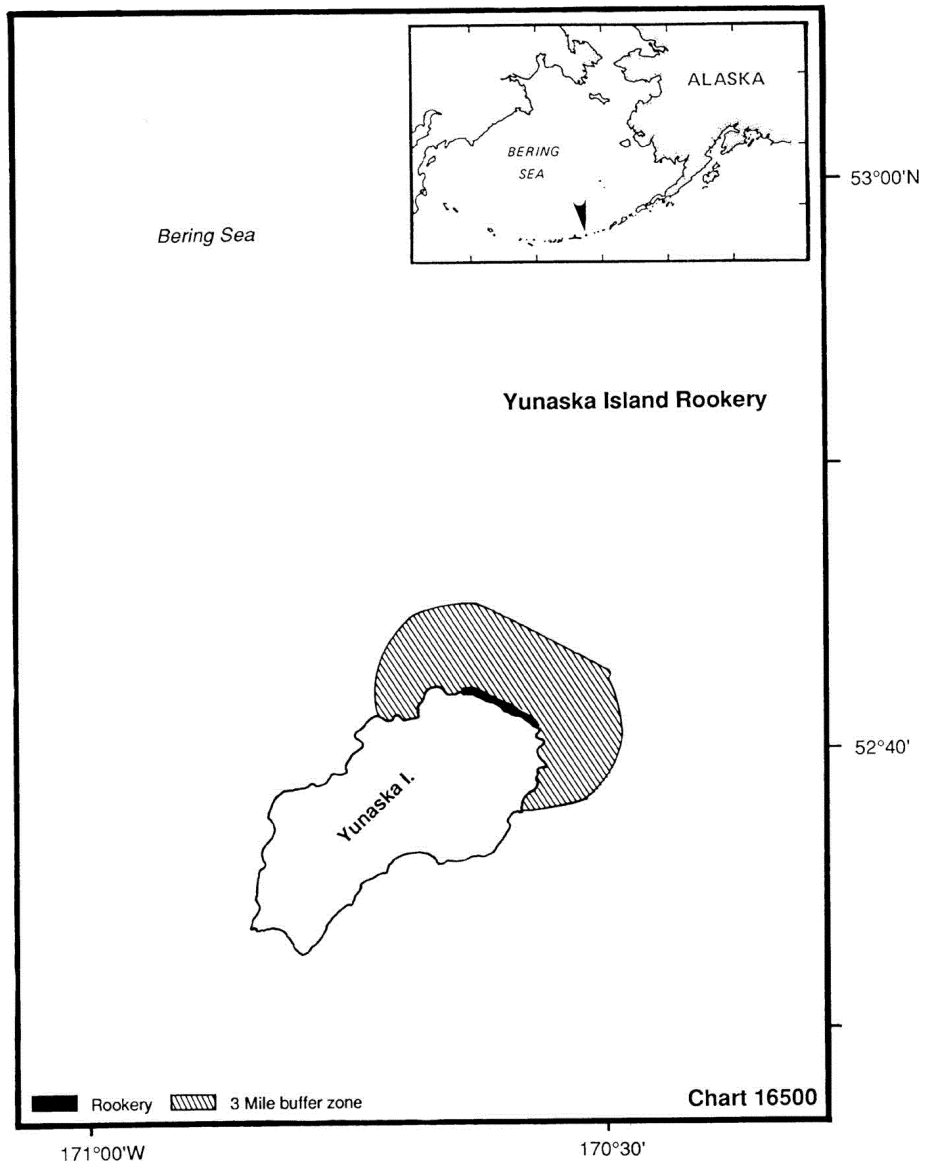


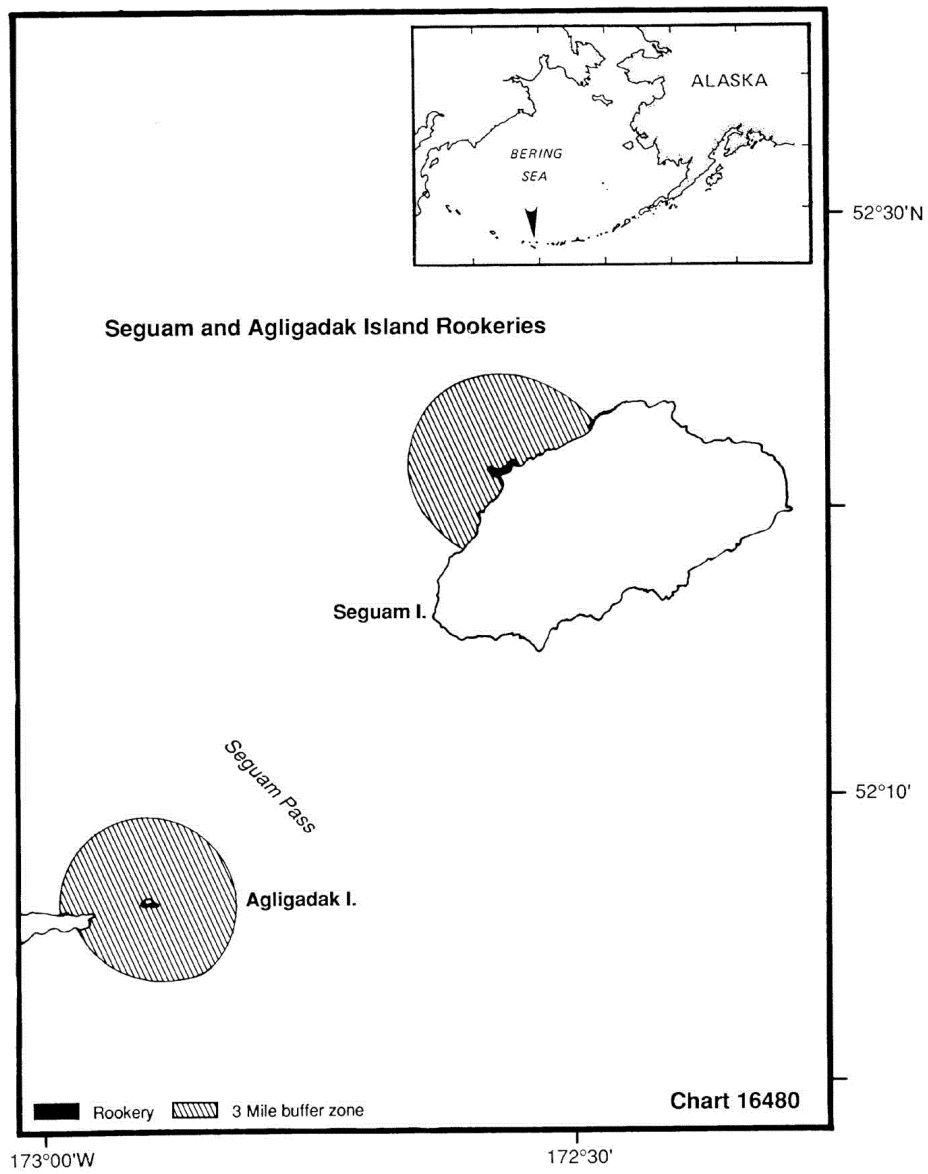


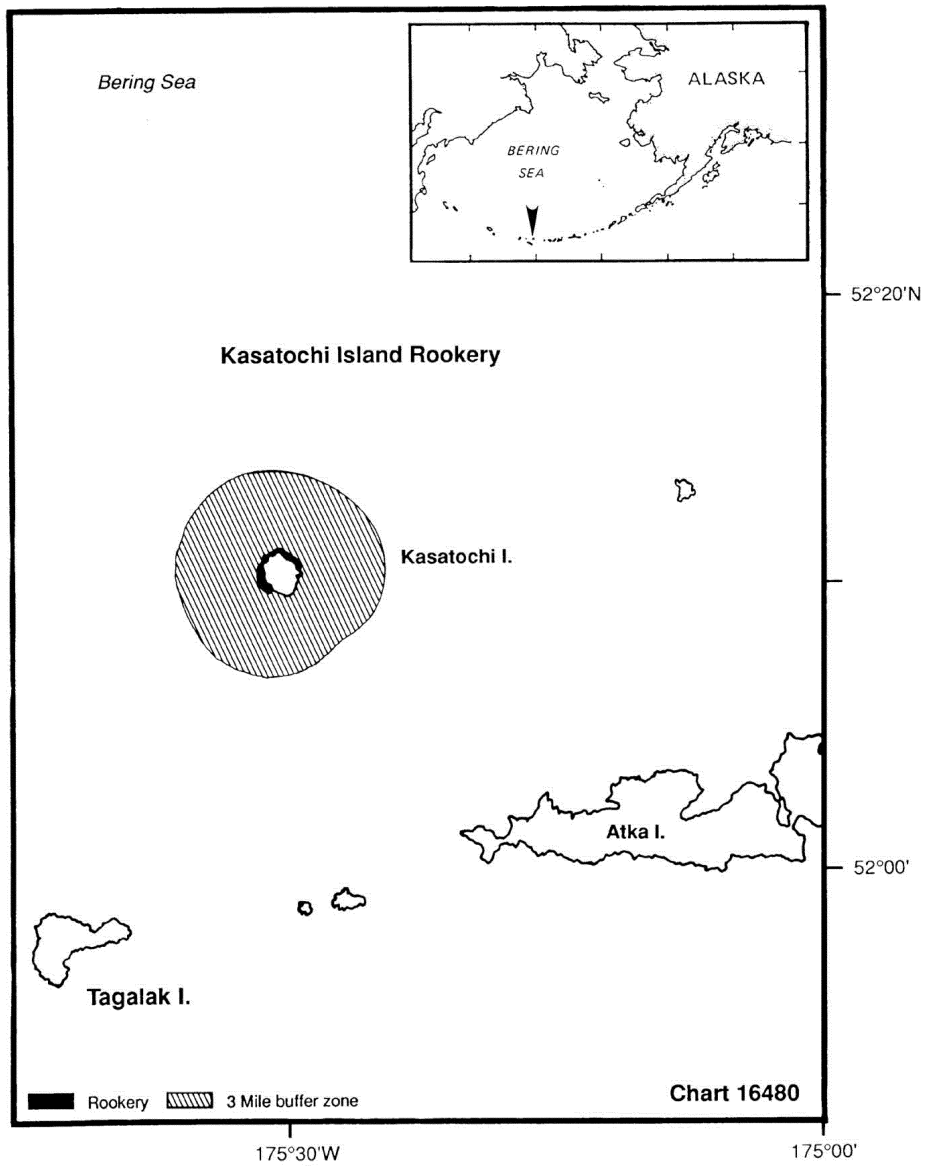


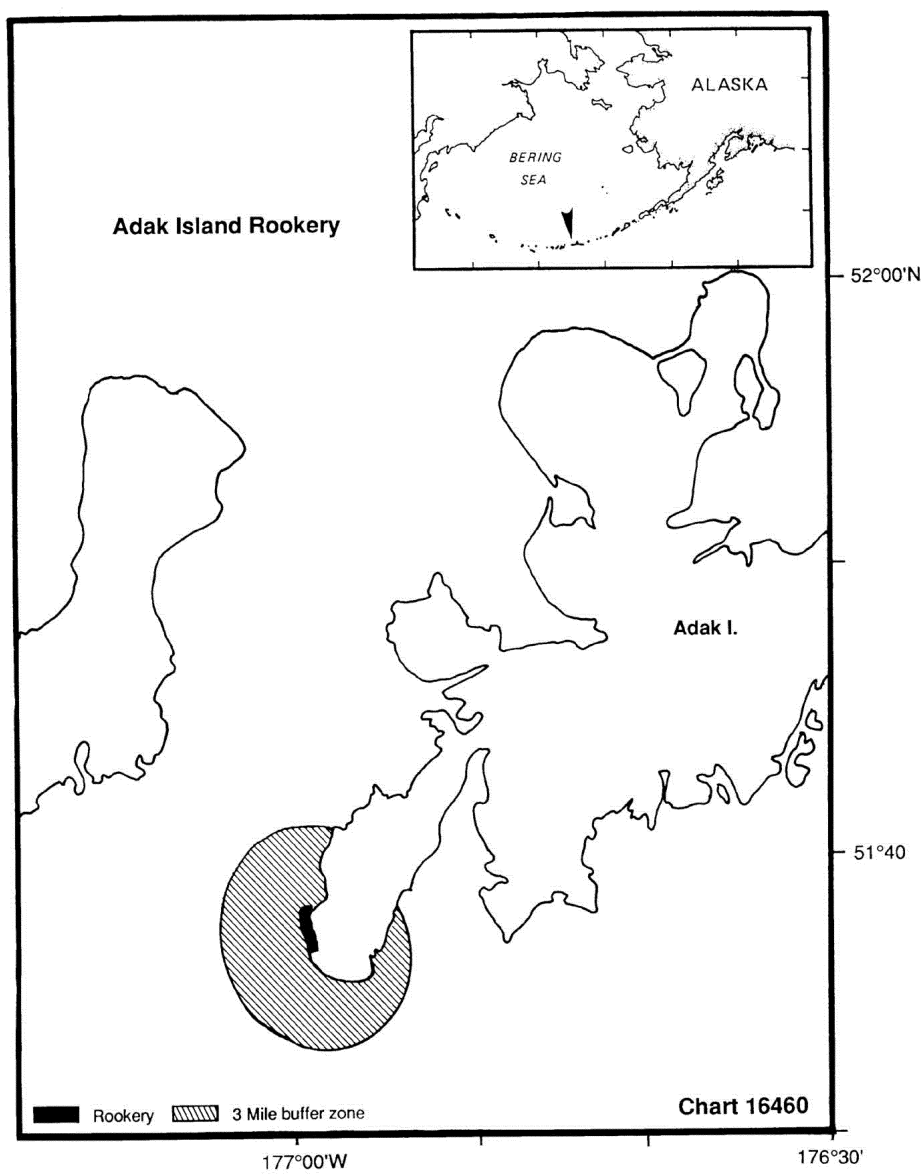


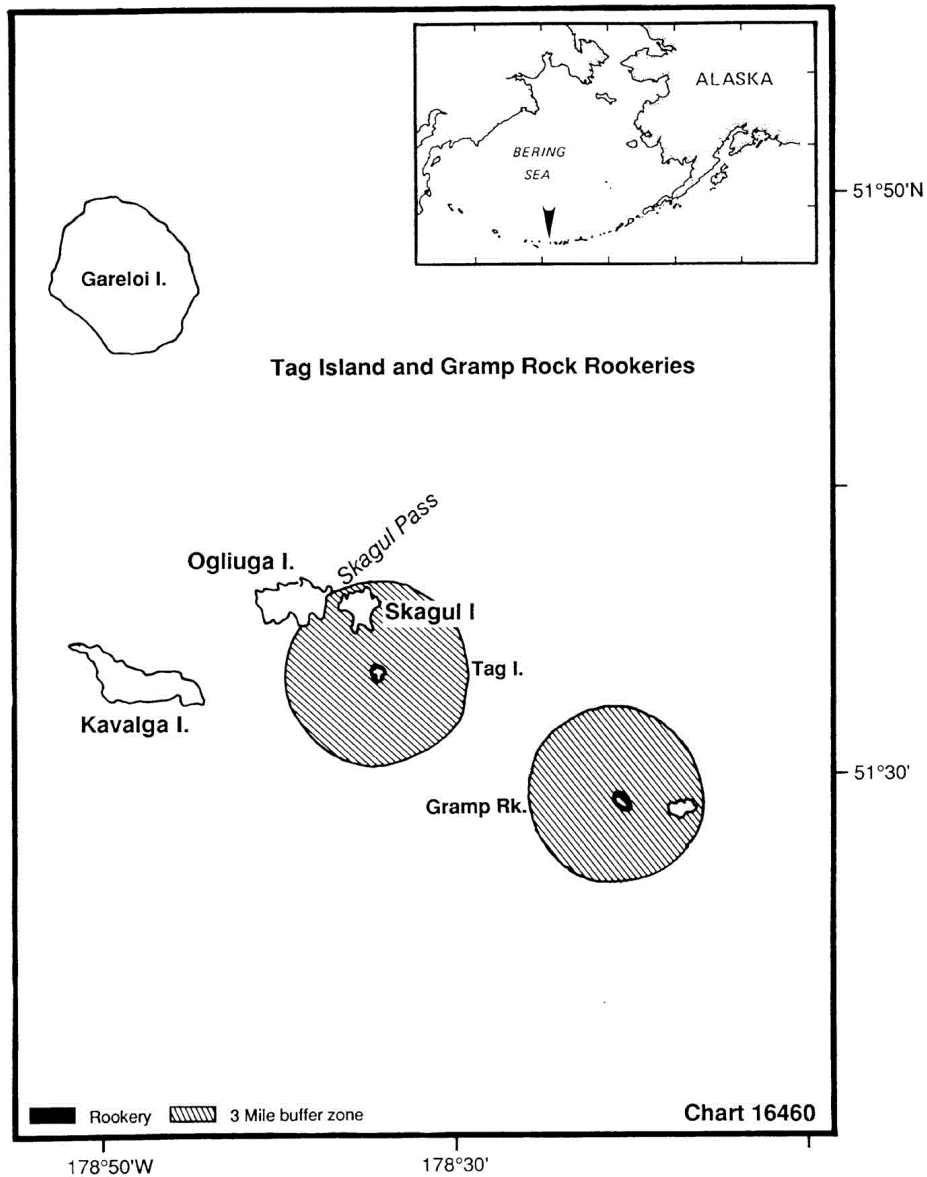


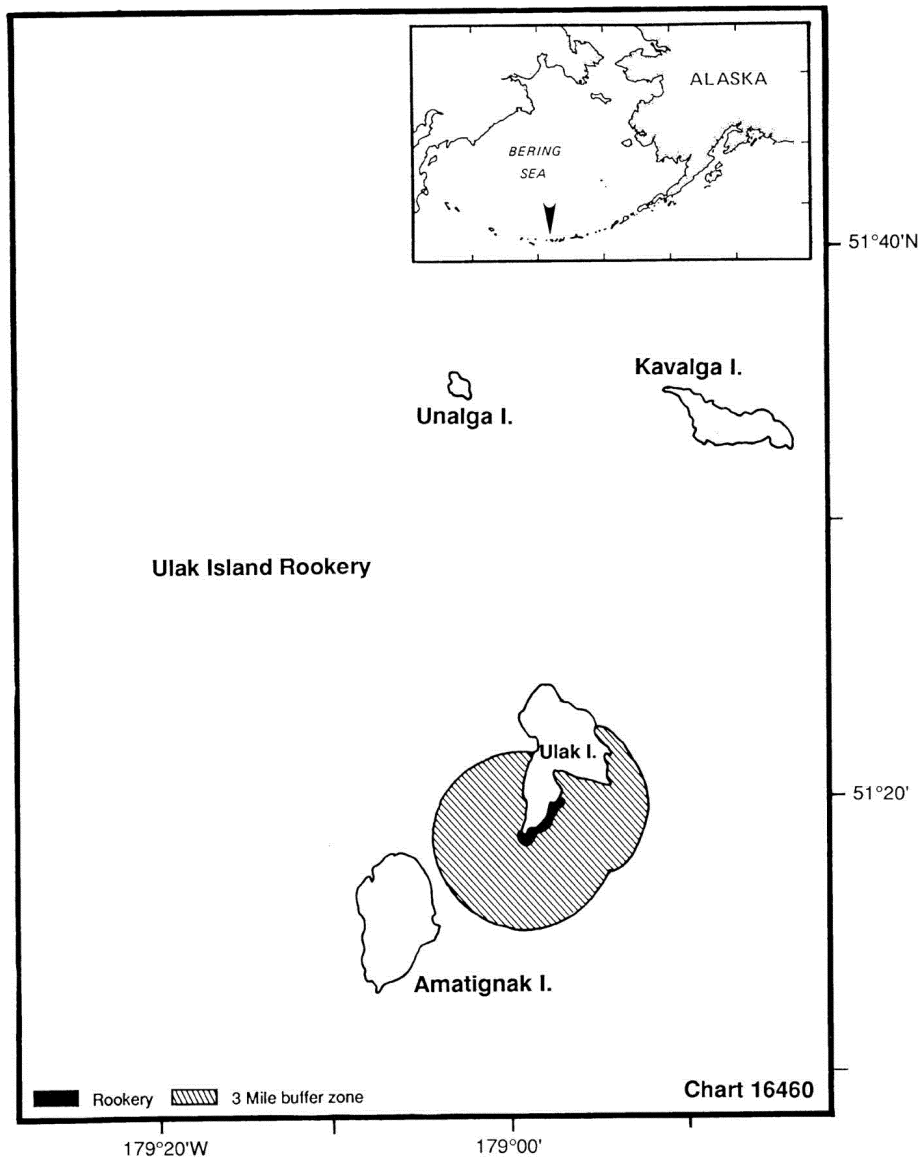


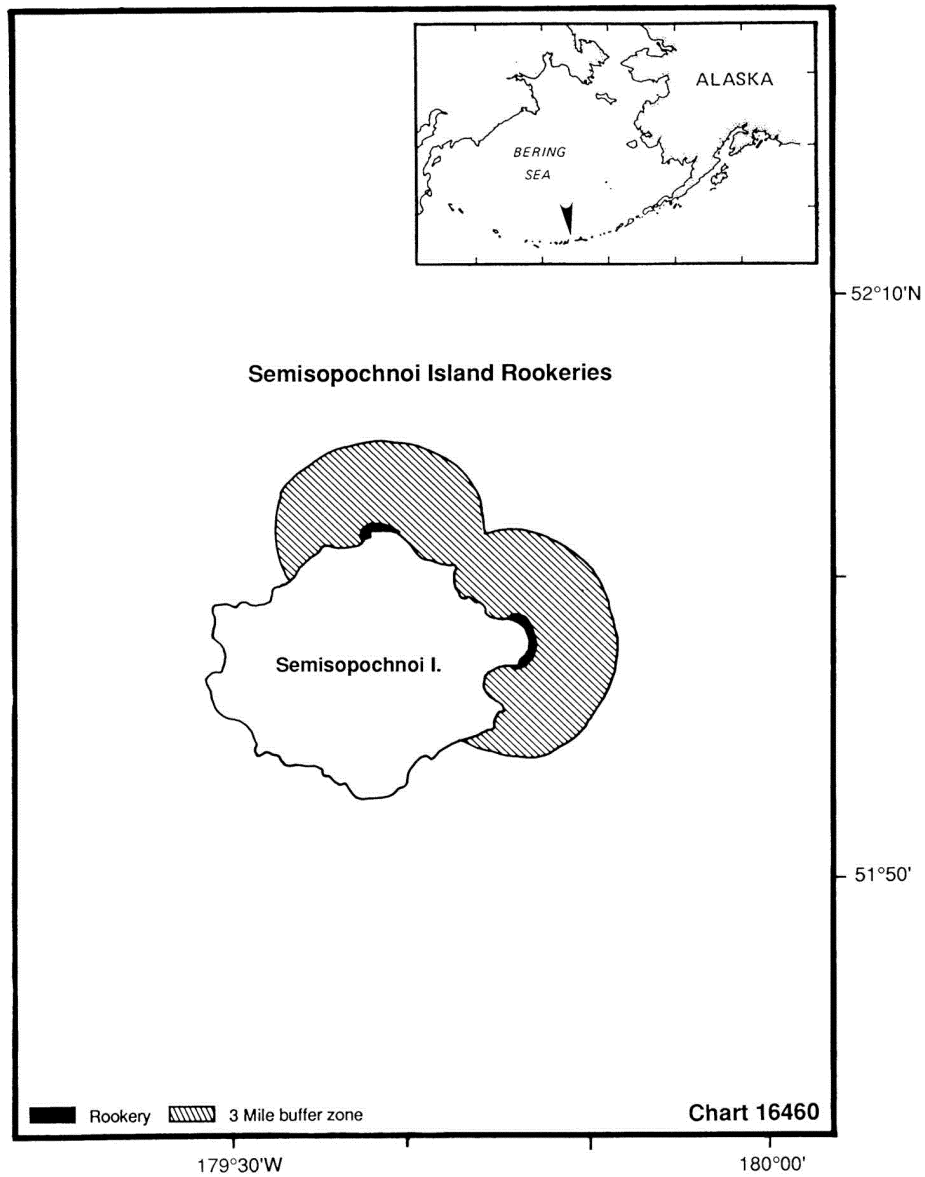


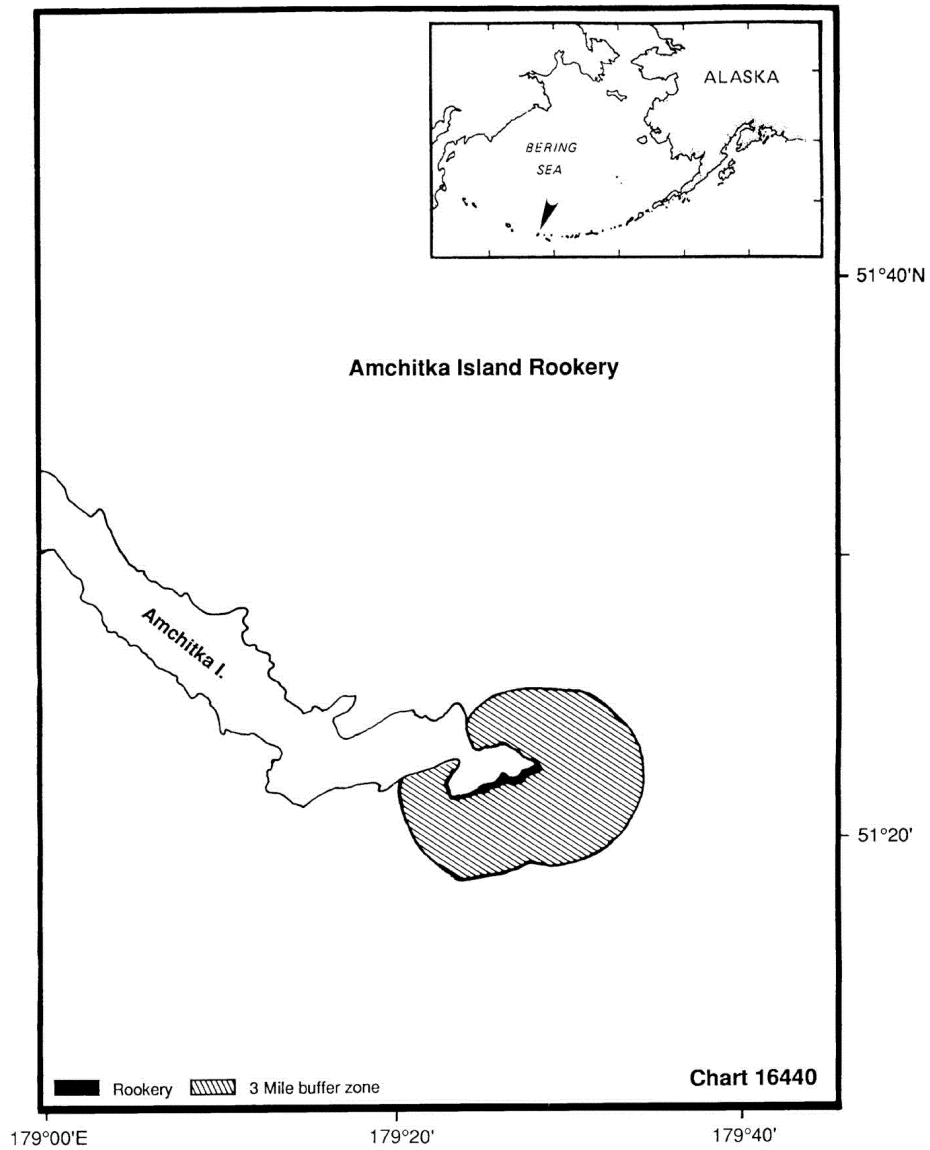


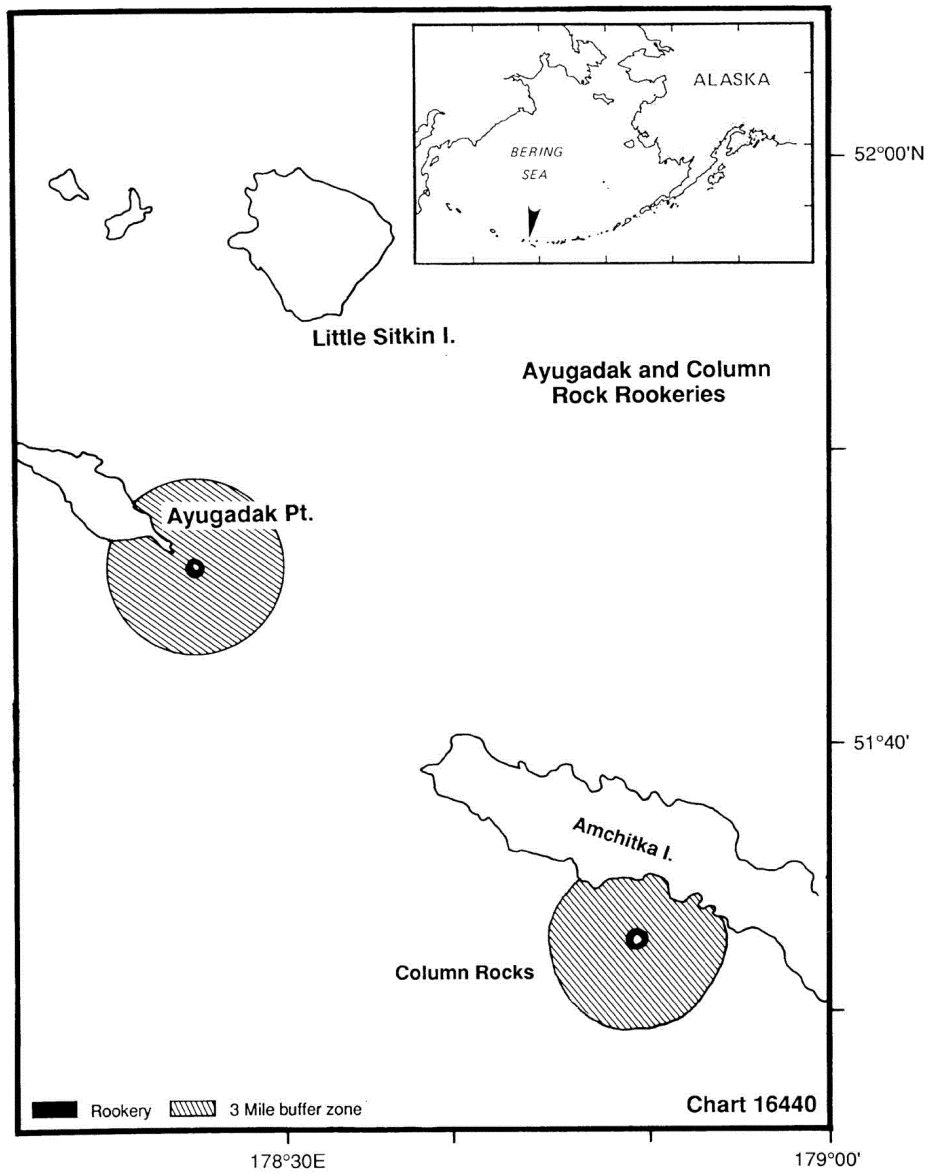


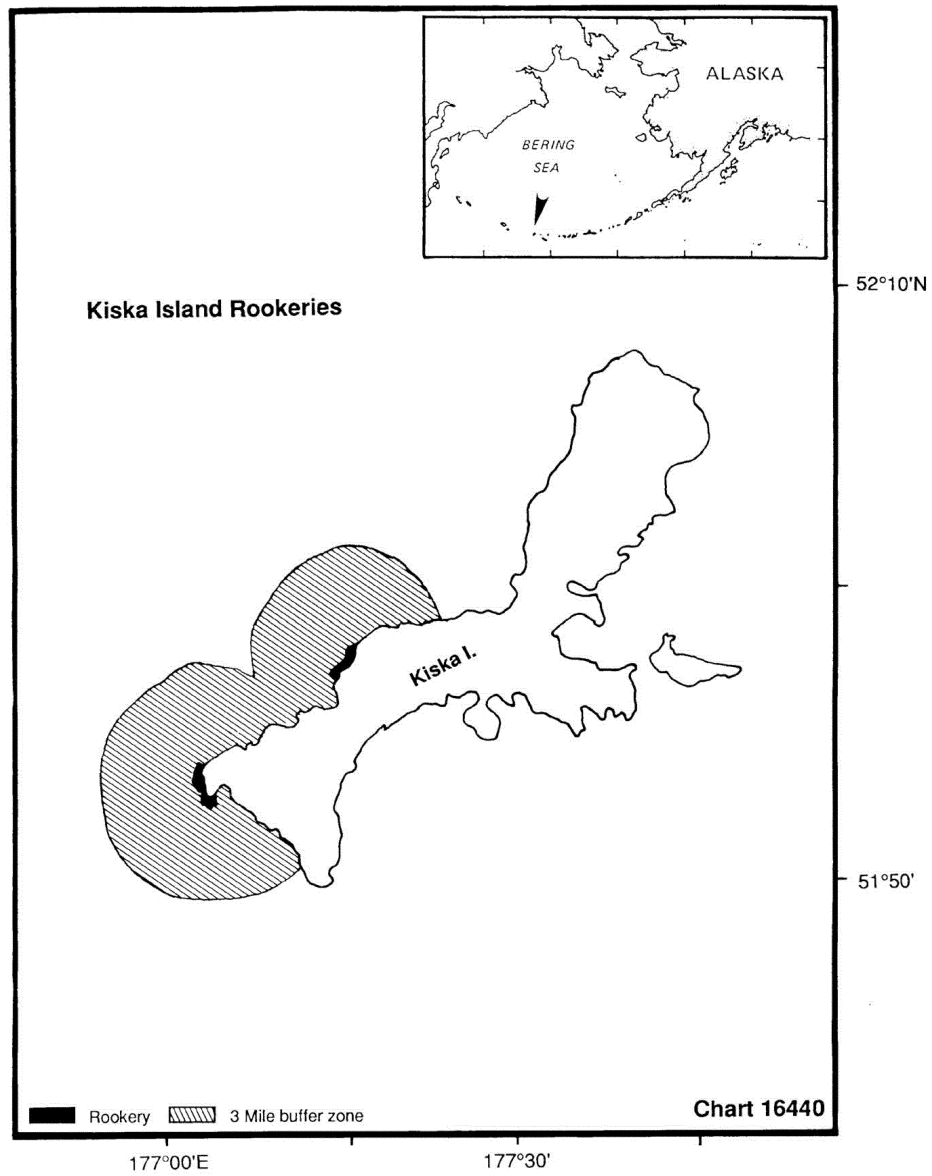


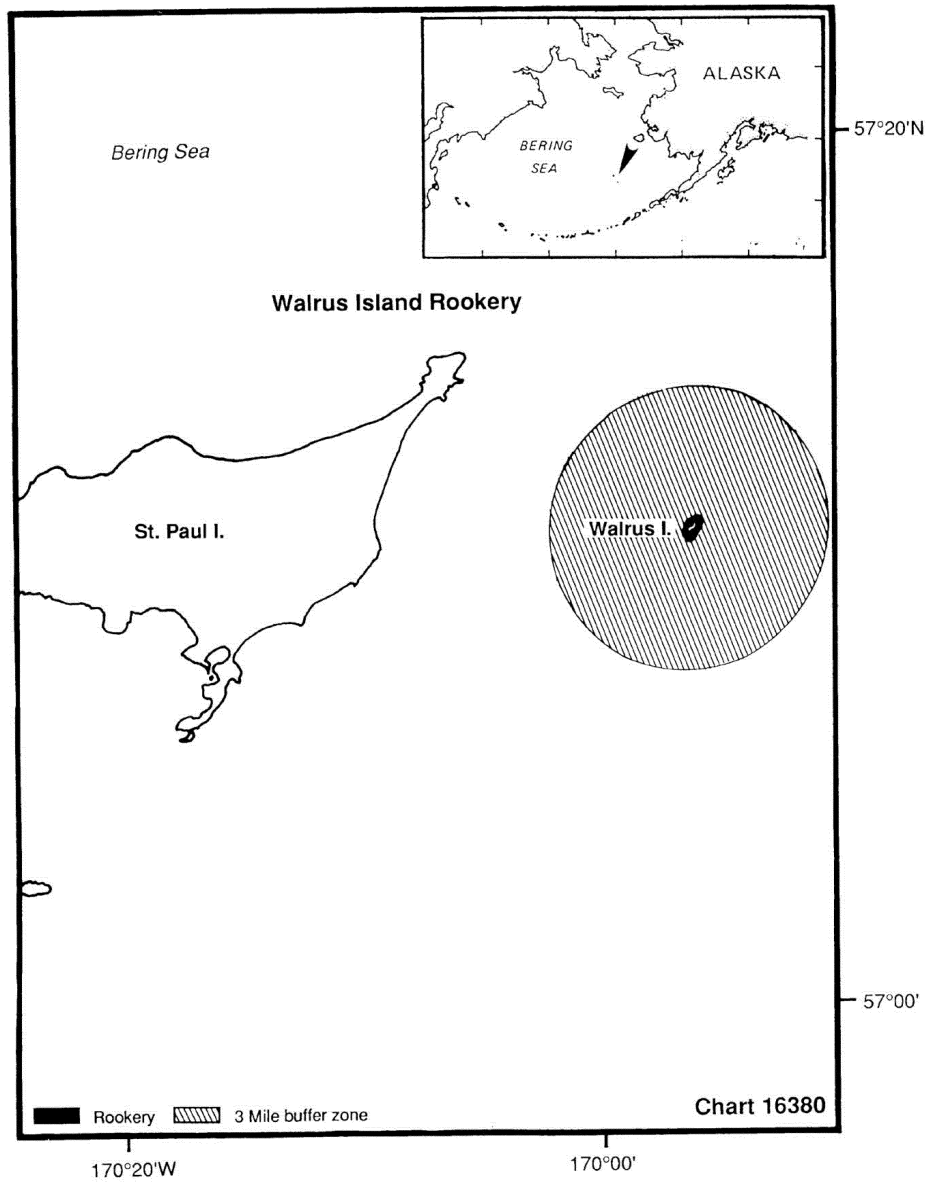


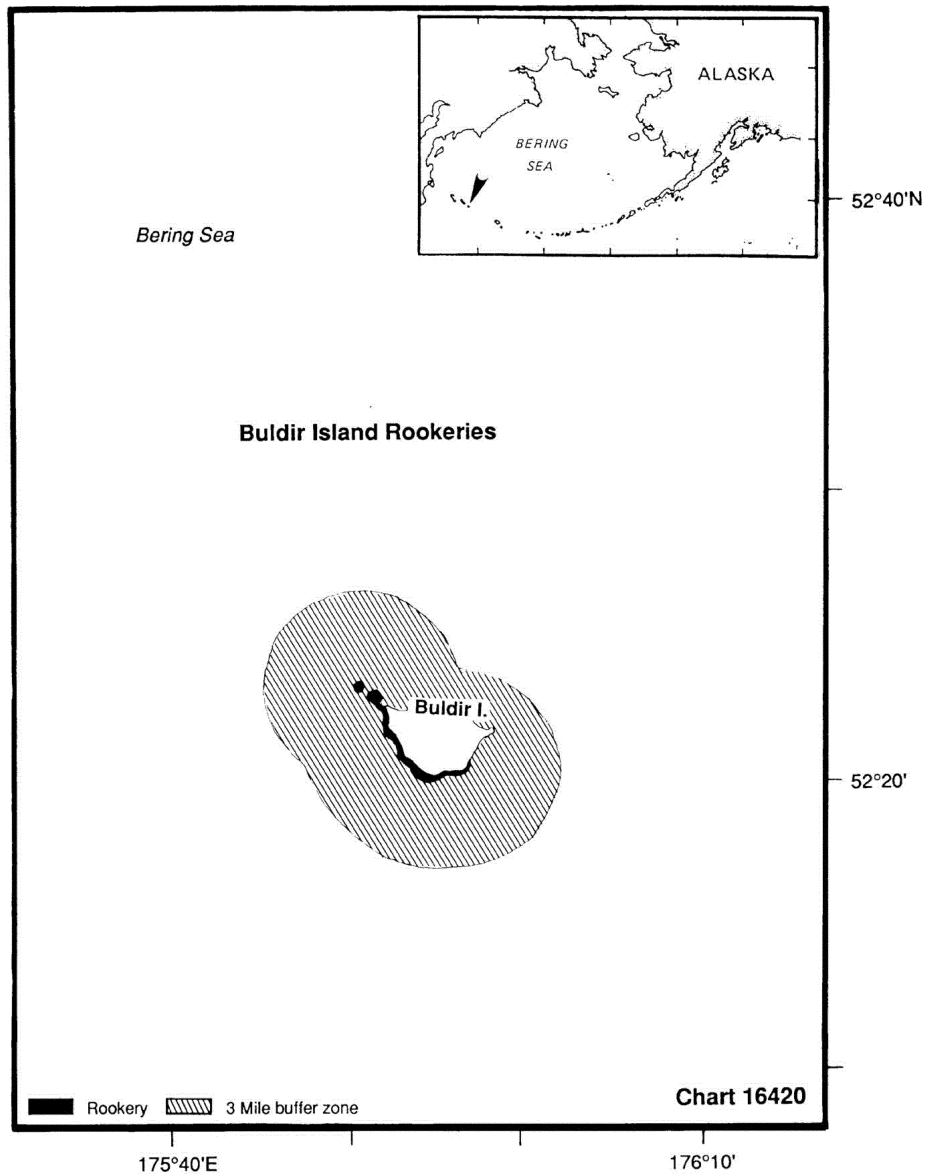


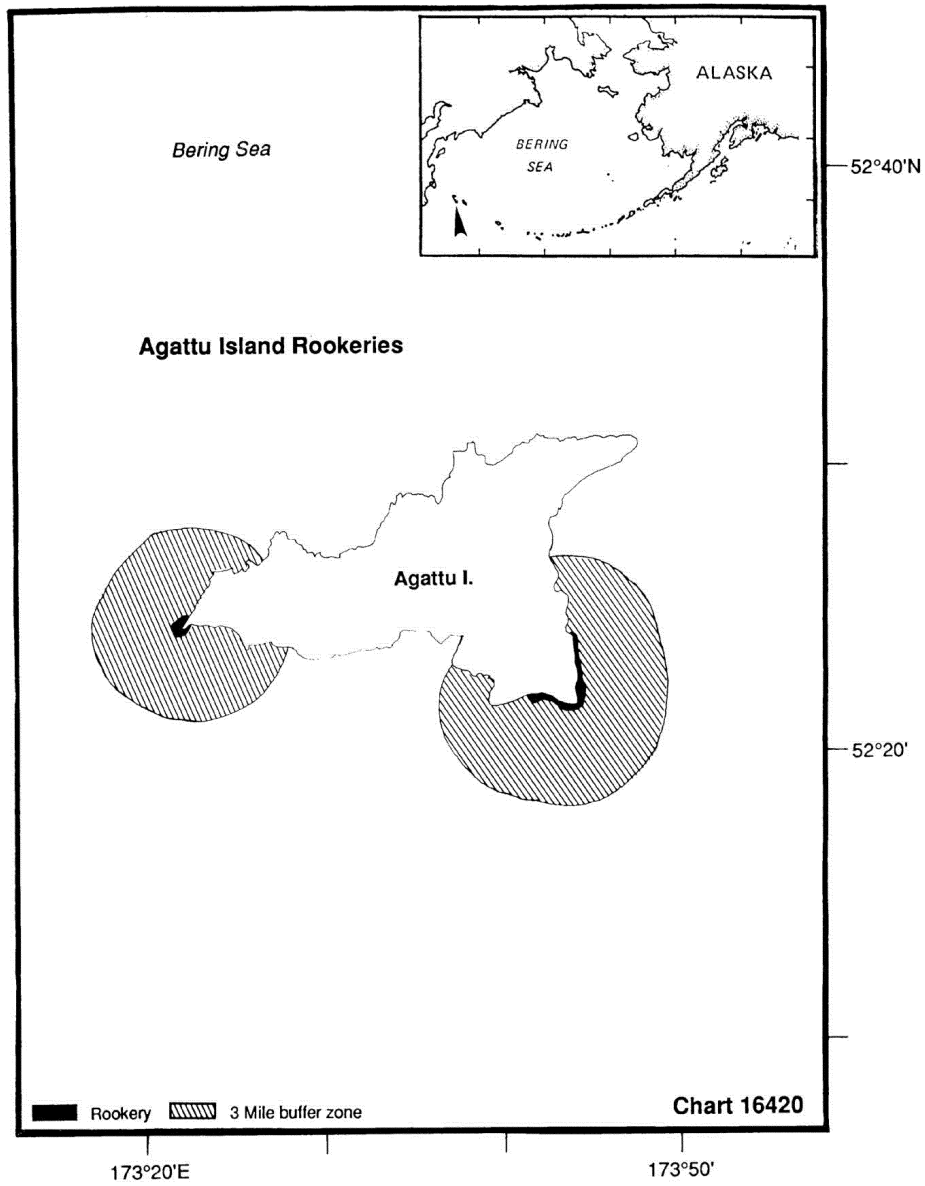


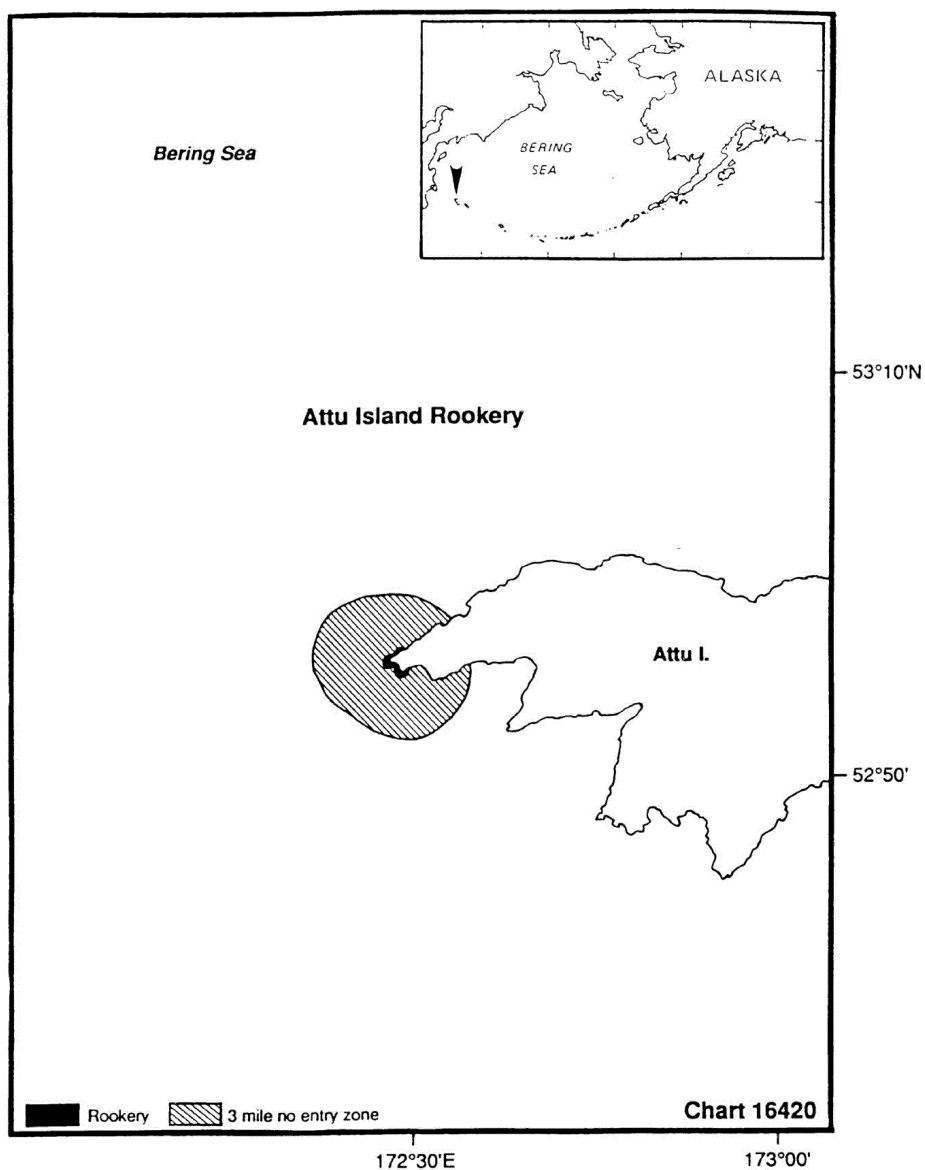












(iv) *Commercial Fishing Operations.* The incidental mortality and serious injury of endangered Steller sea lions in commercial fisheries can be authorized in compliance with sections 101(a)(5) and 118 of the Marine Mammal Protection Act.

(2) *Exceptions*—(i) *Permits.* The Assistant Administrator may issue permits authorizing activities that would otherwise be prohibited under paragraph (d)(1) of this section in accordance with and subject to the provisions of part

222, subpart C of this chapter—General Permit Procedures.

(ii) *Official activities.* The taking of Steller sea lions must be reported within 30 days to the Regional Administrator, Alaska Region. Paragraph (d)(1) of this section does not prohibit or restrict a Federal, state or local government official, or his or her designee, who is acting in the course of official duties from:

(A) Taking a Steller sea lion in a humane manner, if the taking is for the protection or welfare of the animal, the protection of the public health and welfare, or the nonlethal removal of nuisance animals; or

(B) Entering the buffer areas to perform activities that are necessary for national defense, or the performance of other legitimate governmental activities.

(iii) *Subsistence takings by Alaska natives.* Paragraph (d)(1) of this section does not apply to the taking of Steller sea lions for subsistence purposes under section 10(e) of the Act.

(iv) *Emergency situations.* Paragraph (d)(1)(ii) of this section does not apply to an emergency situation in which compliance with that provision presents a threat to the health, safety, or

life of a person or presents a significant threat to the vessel or property.

(v) *Exemptions.* Paragraph (d)(1)(ii) of this section does not apply to any activity authorized by a prior written exemption from the Regional Administrator, Alaska Region, National Marine Fisheries Service. Concurrently with the issuance of any exemption, the Assistant Administrator will publish notice of the exemption in the FEDERAL REGISTER. An exemption may be granted only if the activity will not have a significant adverse effect on Steller sea lions, the activity has been conducted historically or traditionally in the buffer zones, and there is no readily available and acceptable alternative to or site for the activity.

(vi) *Navigational transit.* Paragraph (d)(1)(ii) of this section does not prohibit a vessel in transit from passing through a strait, narrows, or passageway listed in this paragraph if the vessel proceeds in continuous transit and maintains a minimum of 1 nautical mile from the rookery site. The listing of a strait, narrows, or passageway does not indicate that the area is safe for navigation. The listed straits, narrows, or passageways include the following:

Rookery	Straits, narrow, or pass
Akutan Island	Akutan Pass between Cape Morgan and Unalga Island.
Clubbing Rocks	Between Clubbing Rocks and Cherni Island.
Outer Island	Wildcat Pass between Rabbit and Ragged Islands.

(3) *Penalties.* (i) Any person who violates this section or the Act is subject to the penalties specified in section 11 of the Act, and any other penalties provided by law.

(ii) Any vessel used in violation of this subsection or the Endangered Species Act is subject to forfeiture under section 11(e)(4)(B) of the Act.

(e) *Protective regulations for killer whales in Washington—(1) Applicability.* The following restrictions apply to all motorized and non-motorized vessels in inland waters of the United States east of a line connecting Cape Flattery, Washington (48°23'10" N./124°43'32" W.), Tatoosh Island, Washington (48°23'30" N./124°44'12" W.), and Bonilla Point, British Columbia (48°35'30" N./124°43'00" W.) and south of the U.S./Canada inter-

national boundary. The shoreline boundary is the charted mean high water line cutting across the mouths of all rivers and streams.

(2) *Prohibitions.* Except as provided in paragraph (e)(3) of this section, it is unlawful for any person subject to the jurisdiction of the United States to:

(i) Cause a vessel to approach, in any manner, within 200 yards (182.9 m) of any killer whale.

(ii) Position a vessel to be in the path of any killer whale at any point located within 400 yards (365.8 m) of the whale. This includes intercepting a killer whale by positioning a vessel so that the prevailing wind or water current carries the vessel into the path of the whale.

(3) *Exceptions.* The following exceptions apply to this section:

(i) The prohibitions of paragraph (e)(2) of this section do not apply to

(A) Federal Government vessels operating in the course of their official duty or state and local government vessels when engaged in official duties involving law enforcement, search and rescue, or public safety.

(B) Vessels participating with a Vessel Traffic Service (VTS) and following a Traffic Separation Scheme or complying with a VTS Measure of Direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats.

(C) Vessels engaged in an activity, such as scientific research, authorized through a permit issued by the National Marine Fisheries Service under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar National Marine Fisheries Service authorization.

(D) Vessels lawfully engaged in commercial or treaty Indian fishing that are actively setting, retrieving, or closely tending fishing gear.

(E) Vessel operations necessary to avoid an imminent and serious threat to a person, vessel or the environment, including when necessary for overall safety of navigation and to comply with the Navigation Rules.

(ii) [Reserved]

(4) *Affirmative defense.* In connection with any action alleging a violation of the prohibitions of paragraph (e)(2) of this section, any person claiming the benefit of any exception listed in paragraph (e)(3) of this section has the burden of raising, pleading, and proving such affirmative defense.

(b) [Reserved]

[64 FR 14066, Mar. 23, 1999, as amended at 66 FR 29509, May 31, 2001; 69 FR 69537, Nov. 30, 2004; 70 FR 1832, Jan. 11, 2005; 76 FR 20890, Apr. 14, 2011; 78 FR 66169, Nov. 4, 2013]

§ 224.104 Special requirements for fishing activities to protect endangered sea turtles.

(a) Shrimp fishermen in the southeastern United States and the Gulf of Mexico who comply with rules for threatened sea turtles specified in § 223.206 of this chapter will not be subject to civil penalties under the Act for

incidental captures of endangered sea turtles by shrimp trawl gear.

(b) Summer flounder fishermen in the Summer flounder fishery-sea turtle protection area who comply with rules for threatened sea turtles specified in § 223.206 of this chapter will not be subject to civil penalties under the Act for incidental captures of endangered sea turtles by summer flounder gear.

(c) Special prohibitions relating to sea turtles are provided at § 223.206(d).

[64 FR 14066, Mar. 23, 1999, as amended at 66 FR 44552, Aug. 24, 2001; 66 FR 67496, Dec. 31, 2001; 68 FR 8471, Feb. 21, 2003; 69 FR 18453, Apr. 7, 2004; 72 FR 31757, June 8, 2007]

§ 224.105 Speed restrictions to protect North Atlantic Right Whales.

(a) The following restrictions apply to: All vessels greater than or equal to 65 ft (19.8 m) in overall length and subject to the jurisdiction of the United States, and all other vessels greater than or equal to 65 ft (19.8 m) in overall length entering or departing a port or place subject to the jurisdiction of the United States. These restrictions shall not apply to U.S. vessels owned or operated by, or under contract to, the Federal Government. This exemption extends to foreign sovereign vessels when they are engaging in joint exercises with the U.S. Department of the Navy. In addition, these restrictions do not apply to law enforcement vessels of a State, or political subdivision thereof, when engaged in law enforcement or search and rescue duties.

(1) Southeast U.S. (south of St. Augustine, FL to north of Brunswick, GA): Vessels shall travel at a speed of 10 knots or less over ground during the period of November 15 to April 15 each year in the area bounded by the following: Beginning at 31°27'00.0" N-080°51'36.0" W; thence west to charted mean high water line then south along charted mean high water line and inshore limits of COLREGS limit to a latitude of 29°45'00.0" N thence east to 29°45'00.0" N-080°51'36.0" W; thence back to starting point. (Fig. 1).

(2) Mid-Atlantic U.S. (from north of Brunswick, Georgia to Rhode Island): Vessels shall travel 10 knots or less over ground in the period November 1 to April 30 each year:

(i) In the area bounded by the following: 33°56'42.0" N–077°31'30.0" W; thence along a NW bearing of 313.26° True to charted mean high water line then south along mean high water line and inshore limits of COLREGS limit to a latitude of 31°27'00.0" N; thence east to 31°27'00.0" N–080°51'36.0" W; thence to 31°50'00.0" N–080°33'12.0" W; thence to 32°59'06.0" N–078°50'18.0" W; thence to 33°28'24.0" N–078°32'30.0" W; thence to 33°36'30.0" N–077°47'06.0" W; thence back to starting point.;

(ii) Within a 20-nm (37 km) radius (as measured seaward from COLREGS delineated coast lines and the center point of the port entrance) (Fig. 2) at the

(A) Ports of New York/New Jersey: 40°29'42.2" N–073°55'57.6" W;

(B) Delaware Bay (Ports of Philadelphia and Wilmington): 38°52'27.4" N–075°01'32.1" W;

(C) Entrance to the Chesapeake Bay (Ports of Hampton Roads and Baltimore): 37°00'36.9" N–075°57'50.5" W; and

(D) Ports of Morehead City and Beaufort, NC: 34°41'32.0" N–076°40'08.3" W; and

(iii) In Block Island Sound, in the area bounded by the following coordinates: Beginning at 40°51'53.7" N–70°36'44.9" W; thence to 41°20'14.1" N–70°49'44.1" W; thence to 41°04'16.7" N–71°51'21.0" W; thence to 40°35'56.5" N–71°38'25.1" W; thence back to starting point. (Fig. 2).

(3) Northeast U.S. (north of Rhode Island):

(i) In Cape Cod Bay, MA: Vessels shall travel at a speed of 10 knots or less over ground during the period of January 1 to May 15 in Cape Cod Bay, in an area beginning at 42°04'56.5" N–070°12'00.0" W; thence north to 42°12'00.0" N–070°12'00.0" W; thence due west to charted mean high water line; thence along charted mean high water within Cape Cod Bay back to beginning point. (Fig. 3).

(ii) Off Race Point: Vessels shall travel at a speed of 10 knots or less over ground during the period of March 1 to April 30 each year in waters bounded by straight lines connecting the following points in the order stated (Fig. 3): 42°30'00.0" N–069°45'00.0" W; thence to 42°30'00.0" N–070°30'00.0" W; thence to 42°12'00.0" N–070°30'00.0" W; thence to 42°12'00.0" N–070°12'00.0" W; thence to

42°04'56.5" N–070°12'00.0" W; thence along charted mean high water line and inshore limits of COLREGS limit to a latitude of 41°40'00.0" N; thence due east to 41°41'00.0" N–069°45'00.0" W; thence back to starting point.

(iii) Great South Channel: Vessels shall travel at a speed of 10 knots or less over ground during the period of April 1 to July 31 each year in all waters bounded by straight lines connecting the following points in the order stated (Fig. 3):

42°30'00.0" N–069°45'00.0" W

41°40'00.0" N–069°45'00.0" W

41°00'00.0" N–069°05'00.0" W

42°09'00.0" N–067°08'24.0" W

42°30'00.0" N–067°27'00.0" W

42°30'00.0" N–069°45'00.0" W

(b) Except as noted in paragraph (c) of this section, it is unlawful under this section:

(1) For any vessel subject to the jurisdiction of the United States to violate any speed restriction established in paragraph (a) of this section; or

(2) For any vessel entering or departing a port or place under the jurisdiction of the United States to violate any speed restriction established in paragraph (a) of this section.

(c) A vessel may operate at a speed necessary to maintain safe maneuvering speed instead of the required ten knots only if justified because the vessel is in an area where oceanographic, hydrographic and/or meteorological conditions severely restrict the maneuverability of the vessel and the need to operate at such speed is confirmed by the pilot on board or, when a vessel is not carrying a pilot, the master of the vessel. If a deviation from the ten-knot speed limit is necessary, the reasons for the deviation, the speed at which the vessel is operated, the latitude and longitude of the area, and the time and duration of such deviation shall be entered into the logbook of the vessel. The master of the vessel shall attest to the accuracy of the logbook entry by signing and dating it.

(d) No later than January 1, 2019, the National Marine Fisheries Service will publish and seek comment on a report evaluating the conservation value and

economic and navigational safety impacts of this section, including any recommendations to minimize burden of such impacts.

[79 FR 34245, June 16, 2014]

PART 225 [RESERVED]

PART 226—DESIGNATED CRITICAL HABITAT

Sec.

226.101 Purpose and scope.

226.201 Critical habitat for the Hawaiian monk seal (*Neomonachus schauinslandi*).

226.202 Critical habitat for Steller sea lions.

226.203 Critical habitat for northern right whales.

226.204 Critical habitat for Sacramento winter-run chinook salmon.

226.205 Critical habitat for Snake River sockeye salmon, Snake River fall chinook salmon, and Snake River spring/summer chinook salmon.

226.206 Critical habitat for the Southern Resident killer whale (*Orcinus orca*).

226.207 Critical habitat for leatherback turtles (*Dermochelys coriacea*).

226.208 Critical habitat for green turtle.

226.209 Critical habitat for hawksbill turtle.

226.210 Central California Coast Coho Salmon (*Oncorhynchus kisutch*), Southern Oregon/Northern California Coasts Coho Salmon (*Oncorhynchus kisutch*).

226.211 Critical habitat for Seven Evolutionarily Significant Units (ESUs) of Salmon (*Oncorhynchus spp.*) in California.

226.212 Critical habitat for 12 Evolutionarily Significant Units (ESUs) of salmon and steelhead (*Oncorhynchus spp.*) in Washington, Oregon and Idaho.

226.213 Critical habitat for Johnson's seagrass.

226.214 Critical habitat for Gulf sturgeon.

226.215 Critical habitat for the North Pacific Right Whale (*Eubalaena japonica*).

226.216 Critical habitat for elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals.

226.217 Critical habitat for the Gulf of Maine Distinct Population Segment of Atlantic Salmon (*Salmo salar*).

226.218 Critical habitat for the U.S. DPS of smalltooth sawfish (*Pristis pectinata*).

226.219 Critical habitat for the Southern Distinct Population Segment of North American Green Sturgeon (*Acipenser medirostris*).

226.220 Critical habitat for the Cook Inlet beluga whale (*Delphinapterus leucas*).

226.221 Critical habitat for black abalone (*Haliotis cracherodii*).

226.222 Critical habitat for the southern Distinct Population Segment of eulachon (*Thaleichthys pacificus*).

226.223 Critical habitat for the Northwest Atlantic Ocean Distinct Population Segment of the loggerhead sea turtle (*Caretta caretta*).

226.224 Critical habitat for the Puget Sound/Georgia Basin DPS of yelloweye rockfish (*Sebastes ruberrimus*), canary rockfish (*S. pinniger*), and bocaccio (*S. paucispinus*).

TABLE 1 TO PART 226—MAJOR STELLER SEA LION ROOKERY SITES

TABLE 2 TO PART 226—MAJOR STELLER SEA LION HAULOUT SITES IN ALASKA

TABLE 3 TO PART 226—HYDROLOGIC UNITS CONTAINING CRITICAL HABITAT FOR SNAKE RIVER SOCKEYE SALMON AND SNAKE RIVER SPRING/SUMMER AND FALL CHINOOK SALMON

TABLE 4 TO PART 226 [RESERVED]

TABLE 5 TO PART 226—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR CENTRAL CALIFORNIA COAST COHO SALMON, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS/RESERVOIRS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

TABLE 6 TO PART 226—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR SOUTHERN OREGON/NORTHERN CALIFORNIA COASTS COHO SALMON, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS/RESERVOIRS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

AUTHORITY: 16 U.S.C. 1533.

§ 226.101 Purpose and scope.

The regulations contained in this part identify those habitats designated by the Secretary of Commerce as critical, under section 4 of the Act, for endangered and threatened species under the jurisdiction of the Secretary of Commerce. Those species are enumerated at § 223.102 of this chapter if threatened and at § 224.101 of this chapter if endangered. For regulations pertaining to the designation of critical habitat, see part 424 of this title; for regulations pertaining to prohibitions against the adverse modification or destruction of critical habitat, see part 402 of this title. Additional information regarding designated critical habitats that is not provided in this section may be obtained upon request to the Office of Protected Resources (see § 222.102, definition of “Office of Protected Resources”).

[77 FR 25622, May 1, 2012]